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A TREATISE

ON

MUNICIPAL RIGHTS,

&c. &c.

A TREATISE

ON

MUNICIPAL RIGHTS,

COMMENCING WITH

A SUMMARY ACCOUNT

OF THE ORIGIN AND PROGRESS OF SOCIETY

AND GOVERNMENT,

AND COMPRISING

A CONCISE VIEW OF THE STATE THEREOF,

FROM THE EARLIEST PERIOD OF BRITISH HISTORY,

TO THE

INSTITUTION OF CORPORATIONS IN GENERAL,

AND THAT OF THE

City of London in particular;

WITH AN ACCOUNT

Of the ancient Modes of Electing the Mayors and Sheriffs of London, and the Representatives in Parliament,

AND VARIOUS OTHER MATTERS RELATING TO

THE COURT OF COMMON COUNCIL,

AND THE LIVERY,

connected with the

PUBLIC RIGHTS OF THE CITIZENS OF LONDON,

and applicable to the

PRESENT STATE OF THE TIMES,

BY WILLIAM PAYNE,

CITIZEN AND LIVERYMAN OF LONDON.

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1813.

TO THE RIGHT HONOURABLE

THE LORD MAYOR,

THE ALDERMEN,

RECORDER,

COMMON COUNCIL,

AND

OTHER FREE CITIZENS

OF

London:

THE FOLLOWING TREATISE IS RESPECTFULLY SUBMITTED,

BY THEIR OBEDIENT SERVANT,

W. PAYNE.

London, May 1813.

PREFACE.

It has been well observed, that "the history "of England is the proper study of an English- "man, and that those who value the liberty "and happiness which they enjoy in this highly "favored land, must surely be desirous of "knowing the methods by which such advan- "tages were acquired; the progressive steps "from barbarity to social refinement, and from "society to the highest pitch of well consti- "tuted freedom; and that as all Europe stands "in astonishment at the wisdom of the British "constitution, it would argue the greatest de- "gree of insensibility in a native of this coun- "try, who from his birth enjoys such peculiar "privileges, to be ignorant of what others so "much admire;" and various authors have written excellently on the subject, for the information of those who may wish to consult

them. It may, also, with equal propriety, be asserted, with respect to the history of the city of London, the metropolis of the British empire, that it is the proper study of every citizen, and that it concerns such not to be ignorant of the mode by which their privileges were acquired, and the legal and constitutional powers with which they are invested for the support of those privileges ; it being undoubtedly true, that our laws and customs, our liberties, or abuse of liberty, can scarcely be understood without tracing them to their source, and that history is the mean best calculated to dispel the prejudice of party, and soften the violence of dissension, when stated and received with candour.

INTRODUCTION.

THE writer of the following treatise, being a freeman of London by patrimony, and a liveryman of the company of joiners, (whose motto is "join loyalty with liberty,") and as such virtually interested in the support of the prosperity of that ancient and noble city, and having for many years had the opportunity of investigating the public and private rights of his fellow citizens, and considering that there is a great defect of general information in some very important matters relating to their public rights, on which, for want of clearer understanding, able and well informed persons in other particulars, have not unfrequently been found to entertain erroneous opinions; and, observing also that some statements grounded on such opinions, not being taken notice of at the time, have passed as undoubtedly correct, into the

public papers, and thereby into an extensive circulation throughout the country at large; also deeming it highly probable, that from the present appearance of the times further questions may repeatedly occur of a public nature, which may require grave and serious consideration by the deliberative bodies of the citizens, and feeling that the sustentation of the ancient boundaries and limits which the wisdom and experience of past ages have established for the public peace and welfare, and particularly of the constitutional and legal rights, which the citizens of London possess, which have been bravely obtained, and wisely exerted, by the well tempered zeal of their ancestors in numerous instances, in the cause of genuine freedom, and the preservation even of the nation in times most critical and eventful, is the duty of every loyal citizen to aim at; he has deemed it expedient to compile the following treatise, which, though but small in compass, has taken up a considerable portion of time, in writing, and he hopes will be sufficient to render it acceptable to his fellow citizens in general, and to the court of

common council in particular, the importance of whose powers the writer has endeavoured substantially to maintain, and the due and constitutional exercise whereof he conceives to be of the highest interest to the kingdom, the public acts of the corporation of London, giving an example to, and frequently having an important effect upon the country at large.

It may probably be considered by some intelligent persons that the writer has taken too remote and unconnected a view of his subject, by the introduction of several of the chapters that appear in the more early part of this treatise, but deeming the investigation of the historical progress of civil and political liberty, to be important to the deductions that were about to be made of its gradual establishment, he found himself constrained to enter to a limited extent into the researches of antiquity, in order to contemplate its origin, with greater certainty and satisfaction, and therefrom to watch and attend its gradual growth and advancement towards further degrees of maturity

and perfection, and which through the varied scenes of checquered vicissitude, as appears in the more enlarged pages of history, have at different periods been eminently exposed to destruction, as well from the harsh usage of despotic tyranny, as from the equally fatal and more violent digressions of national disorder, whenever propagated by the seeds of unjustifiable ambition, and a lust for unauthorized dominion, or engendered by the contagious spirit of anarchy and usurpation; and considering the establishment of liberty in England to be wholly dependant upon and promoted by the institution and regulation of wise and salutary laws, it is proper at least to refer to the earliest features of juridical constitutions in the internal polity of the country, which in fact are the ordinary and natural basis of all civil regulations, in every society of man, the actual and vigorous state of liberty as it is established in England being immediately strengthened and confirmed by the force of municipal laws, which are advantages that cannot be so satisfactorily proved as by an impartial retrospect and candid consi-

deration of the numerous and various instances pointed out in the history of past times, where the civil liberties of the subject, have been regulated and advanced by the acts of the legislature, and in the framing and construction whereof the people themselves, by representation, are eminently engaged and included, which exhibits a feature in civil polity almost unknown to the rest of the governments in Europe, and forms one of the great balances of the constitution in which the liberties, happiness, and social welfare of the English people, have been found to consist; for although the exercise of personal liberty, has been most extensively enjoyed by the people of this country, yet it is at the same time wisely and necessarily limited and confined within the pale of legal boundaries, but which, nevertheless afford a greater degree and latitude of indulgence, than have fallen to the lot of mankind in any other government, the restraints put upon society by the laws being only such as are reconcileable to every sound principle of civil regulation, and to the salutary duties of social

order, the only rational idea of liberty being that which is founded upon the temperate and consistent modifications of laws for the benefit of society at large, in contradistinction from licentiousness and tumult, which are equally as incompatible with the existence of civil order, as they are dangerous to the welfare of the majority of the people, and abhorrent to the general principles of the citizens of London, who are the firm and zealous supporters, as well of every humane and useful institution as of the British characteristics of liberty and constitutional independence.

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MUNICIPAL RIGHTS, &c.

CHAP. I.

A SUMMARY ACCOUNT OF THE ORIGIN AND PROGRESS OF SOCIETY AND GOVERNMENT.

To understand in what manner the states and kingdoms were founded that have divided the universe; the steps whereby they arose to that pitch of grandeur related in history; by what ties, families, and cities, united, in order to constitute one body or society, and to live together under the same laws and a common authority, it will be necessary, in some degree, to trace things back to the infancy of the world, and particularly to those ages in which mankind being dispersed into different regions, began to people the earth after the universal deluge and the confusion of tongues on the attempt to build the Babel Tower.

It is certain that for a length of time there was but one language in the world, and that the patriarch Noah had the universal dominion over the earth, and it is therefore from him, and his sons, Shem, Ham, and Japheth, that the whole race of mankind have sprung, and the languages used amongst the different nations are to be traced: the descendants of Noah being scattered abroad upon the face of all the earth by the Almighty himself for their presumptuous conduct.

Without, however, proceeding further on the scripture account, which principally relates to the descendants of Shem, the father of the Hebrews, and is capable of being referred to by every individual in this highly favored land, in which the sacred Scriptures are so abundantly circulated, we may observe in general, upon the authority of various intelligent writers, that in the early ages every father was the supreme head of his family: the arbiter and judge of whatever contests might arise within it; the natural legislator over his little society, and the defender of those, who, by their birth, education, and weakness, were under his protection and safeguard.

But although these parental masters enjoyed an independent authority, yet from principles

of affection, it may be concluded they generally made a mild and paternal use of it; as they were obliged by necessity to unite their families in their domestic labours, they also summoned them together and asked their opinion in matters of importance. In this manner all affairs seem to have been transacted in concert and for the common good.

The laws which the paternal vigilance established in this little domestic senate, being dictated with no other view than to promote the general welfare, were concerted with such children as were come to years of maturity, and accepted by the inferiors, with full and free consent, and kept and preserved in families as an hereditary polity, to which they owed their peace and security.

But as it is the nature of all things to increase or decrease, so when each family became multiplied that it could not well be comprehended in one habitation, the children were necessarily dispersed, and consequently in proportion as every family increased by the birth of children, and their marrying into others, they extended their little domain, and formed a street or village; and by the junction of many streets and villages, by insensible degrees, towns and cities were also formed.

These societies growing in process of time very numerous, and the families being divided into various branches, each of which had its head, whose different interests and characters might interrupt the general tranquillity; obedience the fruit of natural reverence, waxing cold and brotherly affection by little and little withering away; it was necessary to intrust one person with the government of the whole, in order to unite all these chiefs or heads under a single authority, and to maintain the public peace by an uniform administration. The idea which men still retained of the paternal government, and the happy effects they had experienced from it, prompted them to choose from among their wisest and most virtuous men, him in whom they had observed the tenderest and most fatherly disposition. Neither ambition, nor cabal, had originally the least share in this choice; probity alone, and the reputation of virtue, or valor, decided on these occasions, and gave the preference to the most worthy.

To heighten the lustre of their newly acquired dignity, and enable them the better to put the laws in execution, as well as to devote themselves entirely to the public good; to defend the state against the invasions of their

neighbours, and the factions of the dissolute or discontented, some title of pre-eminence such as that of king, or prince, was bestowed upon them: a throne was erected, and a sceptre put into their hands; homage was paid them, officers were assigned, and guards appointed, for the security of their persons; tributes were granted; they were invested with full powers to administer justice, and for this purpose were armed with a sword, in order to restrain injustice, and punish crimes.

At first, every city had its particular ruler or governor, who being more solicitous of preserving his dominion than of enlarging it, confined his ambition within the limits of his own territory; but the almost unavoidable feuds which break out between neighbours from the corrupted passions of the mind, the jealousy against a more powerful ruler, the turbulent and restless spirit of a prince; his martial disposition, or thirst of aggrandizement, or the displaying presumed abilities, gave rise to wars, which frequently ended in the entire subjection of the vanquished, whose cities were by that means possessed by the victor, and his dominions consequently increased. Thus a first victory paving the way to a second, and making a prince more powerful and enterprising, several

cities and provinces were united under one monarch, and formed states and kingdoms of a greater or less extent, according to the degree of ardour with which the victor had pushed his conquests.

The ambition of some of these princes being too vast to confine itself within a single state, or kingdom, it broke over all bounds and spread like a mighty torrent, overflowing kingdoms and nations, and they gloried in depriving other princes of their dominions, by carrying fire and sword into the most remote countries, and leaving every where horrid traces of their unhallowed progress; such was the origin of those famous empires, which at different periods have included a great part of the world, some of which are now sunk into comparative insignificance by the rise of others.

Princes made a various use of victory, according to the diversity of their dispositions or interests. Some considering themselves as absolute masters of the conquered, and imagining they were sufficiently indulgent in sparing their lives, bereaved them as well as their children of their possessions, their country and their liberty; subjected them to a most severe captivity, employed them in those arts which are necessary for the support of life, in the lowest

and most servile offices of the house; in the painful toils of the field; and frequently forced them, by the most inhuman treatment, to dig in mines, and ransack the bowels of the earth, merely to satiate their unbounded avarice; others exercised greater lenity towards them, and hence mankind were divided into freemen and slaves, masters and bondmen.

Others introduced the custom of transporting whole nations into new countries, where they settled them, and gave them lands to cultivate which gave rise to colonies.

Other princes again, of more gentle dispositions, contented themselves with only obliging the vanquished nations to purchase their liberties, and the enjoyment of their lives and privileges, by annual tributes laid on them for that purpose; and sometimes they would suffer kings and princes to sit peaceably on their thrones, upon condition of their paying them some kind of homage.

But such of these monarchs as were the wisest and ablest politicians, thought it glorious to establish a kind of equality betwixt the nations newly conquered, and their other subjects; granting the former, almost all the rights and privileges which the others enjoyed; and by this means a great number of nations that

were spread over different and far distant countries, constituted, in some measure, but one people which gave rise to provinces as was the custom with the Roman governments, in various nations, and particularly in Britain, the first historical account, that is relied on, of the British Isle, being communicated by Cæsar in the commentaries he wrote respecting the wars in which he was engaged, and Cæsar and Tacitus both agree, that the laws and customs of the Germans, Gauls, and Britons were much the same, which is also confirmed by other historians.

CHAP. II.

OF THE POLITICAL INSTITUTIONS OF THE ANCIENT GERMANS.

THE more illustrious persons, or princes, as Cæsar denominates them, were intrusted by the people with the management of the respective divisions or states, as the best qualified to govern, and the office and jurisdiction of these magistrates expired at first with the year, and when they went to war all authority was lodged with the general. This circumstance was favorable to the people, and the allotments to princes in the annual division of the land being unequal to the expence of maintaining their dignity, and the shares they received in the distributions of booty furnishing to this end a precarious relief, it was the contributions of the populace, (which were voluntary and not subject to exaction) that supported the rude splendour and magnificence in which they were wont to vie with each other. Hence the princes found themselves in a state of subjection and dependance.

In the community, the supreme power was vested. The council of the nation, consisting of those who had been presented with a framea, (i. e. spear or javelin) for all such had a title to be present, assembled at stated times, and every man came to it in arms. But as the extreme liberty of the people made them slow to convene on more ordinary occasions, it was made a law that the person who came last, when matters of importance were under deliberation, should be put to death, as regardless of the honor and interest of his tribe.

To none but in this assembly was it lawful to speak of public affairs, and to those alone whom age had rendered wise and venerable, and to whom valor and eloquence had given reputation was paid a preferable attention. In other respects, there subsisted the most entire equality, for no artificial differences of place, or of rank, being known, the only distinctions among men were their personal qualities. In this national assembly, they deliberated about peace and war, and concerted the plan of operations for the year. Here the general and princes were elected; here they determined against what nation they should turn their arms, and what number of auxiliary troops they should hire out to the neighbouring tribes

that might require their aid; here their new customs obtained their sanction, old ones were abolished, the division of the land directed, and all concerns whatever of state or moment transacted. The majority of voices decided all controversies; and the measures they found most expedient and agreeable were formed and carried into effect.

CHAP. III.

OF THE ANCIENT INHABITANTS OF BRITAIN, AND THEIR STATES OR TRIBES AND COUNCILS.

The British isles are by respectable historians generally believed to have been first inhabited by divisions of the Celtæ, Gauls, or Cimbri, that settled on the opposite shore, who are reputed to have been descendants of Gomer, one of the sons of Japheth, by whom we are informed "the isles of the Gentiles were divided in "their lands, every one after his tongue, after "their families, in their nations," and which original inhabitants of Britain are supposed to have been discovered by the Phenicians, about 450 years anterior to the Christian æra, but respecting whom there is comparatively little information that can be relied on, from the want of historical authority, until the invasion of Britain by the Romans, in the time of Julius Cæsar, who has given some fragments of history concerning them, by which we are led to understand "that the inland part of Britain "was inhabited by those whom fame reported

" to be natives of the soil; that the sea coast " was peopled with Belgians, drawn thither by " the love of war and plunder; that the ancient " Britons wore no cloathing, but painted their " bodies of a blueish colour with divers repre- " sentations, to make them appear more terrible " in battle; that they were fierce in war, and " generally fought in chariots, throwing darts " and other instruments of destruction with " great dexterity; that their diet was plain and " simple, being little more than the barks and " roots of trees, with fruits and milk, and that " their religion was altogether superstitious, in " as much as they worshipped the gods of the " heathens, and in their sacrifices offered not " only beasts but the blood of captives taken " in battle."

The earliest account, however, that is to be met with, indicates that the whole island was branched out into separate states, comprehending the following divisions, and that their government, like that of the ancient Gauls, consisted of several petty principalities, which seem to be the original government of mankind, and deduced from the natural right of paternal dominion; but, whether their little principalities descended by succession, or whether the rulers were elected by the consent of the people, is not recorded.

The Names of the States or Tribes.	*Divisions.*
1. Danmonii.	Cornwall and Devonshire.
2. Durotriges.	Dorsetshire.
3. Belgæ.	Somerset, Wilts, the North part of Hants, and Isle of Wight.
4. Attrebatii.	Berks.
5. Regni.	Surrey, Sussex, and the South part of Hants.
6. Cantii.	Kent.
7. Trinobantes.	Middlesex and Essex.
8. Iceni.	Suffolk, Norfolk, Cambridge, and Huntingdonshire.
9. Catieuchlani.	Bucks, Bedford, & Hertfordshire.
10. Dobuni.	Gloucester and Oxfordshire.
11. Silures.	Hereford, Monmouth, Radnor, Brecon, and Glamorganshire.
12. Dimetæ.	Carmarthen, Pembroke, & Cardiganshire.
13. Ordevices.	Flint, Denbigh, Merioneth, Montgomery, Carnarvonshire, and Anglesea.
14. Cornavii.	Chester, Salop, Stafford, Warwick, and Worcestershire.
15. Coritani.	Lincoln, Nottingham, Derby, Leicester, Rutland, and Northamptonshire.
16. Brigantes.	Yorkshire, Lancaster, Westmorland, Cumberland, & Durham.
17. Ottadini.	Northumberland.

The most particular account of the councils of the ancient Britons that the writer has been able to meet with, is stated by Mr. Gurdon on parliaments, which is in substance as follows:

"The Britons always met in council armed, "none being allowed a suffrage that had not a "spear or partisan: when matters proposed "by the prince were approved of, the members "clattered and rustled their spears together, to "shew their approbation, which indicated the "most honorable and general consent. If the "matter proposed was not liked, or approved, "the members shewed their dislike, or dissent, "by a clamorous or rude noise."

"In the general council, the British laws "were made, both for preservation of peace "and property, and the execution thereof "committed to the Druides, who were the "judges in cases both sacred and civil. The "British laws were not put into writing, but "carried from the council by the memory of "the Druides, and such as had any inclination "to be learned in the laws of the land, went "into the Druide's schools, where, by frequent "repetitions, the Druides imprinted them in "the memory of their pupils, as the oral law, "or cabala of the Jews, was delivered to the "people by the Rabbins."

" The ancient Britons were very careful of " domestic peace, in preventing private cabal- " ling and seditious reflections upon the ad- " ministration; their law allowing none but " the magistrates to talk of the affairs of the " commonwealth, and that only in open coun- " cil. They were also as careful to have early " intelligence of insurrection or invasion; for " any person that heard a report of warlike pre- " parations upon the borders, or of approach- " ing danger to the commonwealth, was by " their law obliged to impart it to a magistrate."

They called their council Kifrithin, which in the British language imports to debate and treat upon matters to be taken into consideration for the public weal.

The members of their council were their Edlins which were of royal or princely race, and the governors of districts and lords of villages, the husbandmen and all the common people were esteemed no more than servants, had no interest in land, being removeable at the will of their lord, and were not admitted to sit in council.

The sons of the nobility, (so called) were not admitted into council till they were esteemed of age, and ability of body and mind to be serviceable in war and then they were admitted

by the prince or president, delivering in open council a shield and partisan, (pike or halberd), and from that time the person so admitted was esteemed a member of the commonwealth.

Were we to take our character of the ancient inhabitants of this island from the legends which have been invented respecting them, we might be apt to imagine, that arts even in that early period were cultivated, and sciences known to some degree of perfection; also that governments were systematically established, upon principles of genuine liberty amongst the Britons; but a noble author has very properly observed, that to judge of what the Britons then were, we must look to what the savage nations are at present. That it is in some measure happy for a barbarous people to be conquered by a country more polite than themselves; and that it is owing to the example of the Romans, who of all the conquerors history can produce, were the most polite, the most generous and humane, that the situation of the Britons was ameliorated by progressive civilization.

CHAP. IV.

OF THE STATE OF BRITAIN UNDER THE ROMANS.

It is at this æra that professor Millar commences his Historical View of the English Government, and he observes that, among all the countries subdued by the Romans, none was in a more uncultivated state than Britain; and that it is probable that no country derived greater advantages from her subjection. That a great part of the inhabitants before they were incorporated in the Roman Empire seem to have been strangers to agriculture, and to have been maintained chiefly by their herds of cattle. That they were divided into small independent tribes, under their several chiefs, and their little societies, were much addicted to plunder and for that reason frequently engaged in hostilities; but a regard to mutual defence had occasionally produced alliances among some of them, from which a variety of petty princes or kings had arisen in different parts of the country.

In the public administration of the province, the Roman magistrates assumed an absolute authority; but in matters of private property, the British chiefs and petty princes appear for some time after the conquest to have retained their ancient jurisdiction, and to have determined the differences of their own tenants and dependants. But this jurisdiction became gradually more circumscribed and seems at last to have been entirely annihilated. The continual migration of foreigners into the province, brought along with them the fashions acquired in other parts of the empire; while the multiplication and enlargment of the British towns, which for the most part, were governed according to the policy of Rome, extended the influence of the Roman judges. The province of Britain is said to have contained about a hundred and forty towns, nine of which were of the rank of colonies; and the customs as well as the notions of order and justice, which prevailed in those places of common resort, were easily propagated over the surrounding country. The long continuance of the provincial government, and the progress of the natives in civilization, disposed them to neglect their original magistrates, and to court

the favor of the ruling powers, by an immediate appeal to their protection.

The improvements made by the Britons in agriculture were such as to produce a regular exportation of corn, for supplying the armies in other parts of the empire; their houses were built in the same style of architecture, and many of them were adorned with statues and public structures, in the same taste of magnificence which prevailed in Italy. In this branch of labour, their mechanics were even so numerous, and had such reputation, as to be employed upon the neighbouring continent. In weaving cloth they appear also to have made considerable proficiency, and it is recorded in particular, that linen and woollen manufacturers were established at Winchester.*

The foreign trade of Britain, arising from her valuable tin mines, and for which the island was, at a very remote period, frequented by the Phenicians and other commercial nations of antiquity, is universally known. When this branch of commerce together with those of lead, wool, hides, and some other native productions, came to be secured of a regular market, under the eye and protection of the Roman magis-

* Henry's History, Vol. I.

trate, they were undoubtedly pushed to a considerable extent. The successive changes which happened in the political situation of the Roman empire, produced alterations in the administration of all the provinces, as well as of Britain in particular.

In the declining state of the Roman empire, the revenue of the provinces, by suffering a gradual diminution, became at length insufficient for the support of their civil and military establishments; and whenever any country had been reduced to such a degree of poverty as to be no longer able to repay the trouble and expence of maintaining it, good policy seemed to require that it should be abandoned. To such an unfruitful condition the distant provinces, and Britain more especially, appear to have been fast approaching, in the reign of Arcadius and Honorius, when a deluge of Barbarians, pressing on all sides, threatened the Roman state with sudden destruction, and made it necessary to withdraw the forces from this island, in order to defend the richer and more important parts of the empire, and in consequence (about the year 410), the Roman government in Britain ended, after a period of 463 years from the first entrance of Julius Cæsar into the island.

CHAP. V.

OF THE STATE OF BRITAIN UNDER THE SAXONS AND ANGLO SAXONS, AND THEIR GOVERNMENT AND COUNCILS, WITH INCIDENTAL REMARKS.

THE Britons abandoned by the Romans, and not able to secure themselves against the powerful invasion of the Picts, and Scots, sought for aid and assistance from the Angles and other Saxon tribes, who taking advantage of their weakness, began to think of making the island their own, and by quarrelling with the natives, and entering into alliances with their enemies, turned their arms against the Britons who had so kindly received them, and at length obliged many of them to retire into Wales, where their posterity still remain, and their original language is yet partially spoken.

The island which was before divided into Roman provinces, was by the Saxons branched out into seven distinct governments, or independent states denominated the heptarchy, (during which time, Lord Coke observes, the kingdom was in a miserable state) under the names of

1. The kingdom of Kent.
2. The South Saxons.
3. The West Saxons.
4. The East Saxons.
5. Northumberland.
6. The East Angles.
7. Mercia.

This settlement of the Saxon government, which is represented to have been entirely elective, and nearly republican, continued for several centuries, under various princes, of whom we have but a confused and unsatisfactory account to the time of Egbert, who partly by conquest, and partly by inheritance, about the year 827, became the sole monarch of the nation, by uniting the heptarchy into one kingdom, and by his royal edict, commanded that the south part of Britain should be named Angleland, or England, from the Angles, the most valiant and numerous of the nations that came over with Hengist, one of the first leaders of the Saxons into Britain.

With respect to the Saxon councils, it appears, that before the establishment of the sole monarchy, the Saxons assembled upon certain days to deliberate upon public affairs, and they generally met in arms. The assembly being convened, silence was commanded by a priest,

who seems to have had great authority on such occasions; then some person eminent for military virtue, quality or eloquence, stood up and harangued the multitude on the subject of their meeting, and his speech was either condemned by a tumultuous noise, or applauded by the clattering of their javelins; that the common business of these councils was to appoint chiefs for presiding in their several divisions; but that though these meetings were held by the chiefs and people in common, yet that every individual was not admitted to the council, which consisted of such only as wore armour, and that no man was intitled to this privilege until he had by the consent and determination of the council been formally armed by some relation with a shield and lance; which proceedings it may be observed, are very similar to what is before stated, respecting the councils of the ancient Britons.

But when monarchy was established, Alfred, surnamed the Great, from which period, English history may properly be said to commence, and our constitution to take its rise, either formed or new modelled the kingdom into counties, the counties into hundreds, and the hundreds into tythings, and is said to have compiled an excellent body of laws from the scriptures, the

institutions of other nations, and the collections or digesta of his predecessors, Ethelbert, Ina, and Offa, and all his resolutions with respect to public affairs are represented by Smollett to have passed through three different councils: the first of which was composed of the king's particular friends, in which every measure was prepared for the second council, consisting of the bishops, counts, viscounts, judges, and some of the principal thanes, afterwards distinguished by the name of barons. The third was the general assembly of the nation, called in the Saxon the "Witteuagemote," the members of which owed their admission to their own quality or offices, independent of the king's pleasure or appointment, and are generally supposed to have been the allodial proprietors of land. The Wittenagemote is alledged to have been the great national council in the time of the Anglo Saxons, (although it is probable, that during the continuance of the heptarchy, each of the Saxon kingdoms or states had its own,) and its determinations were signified not by collecting exactly the number of suffrages, but by a promiscuous acclamation, in which the by-standers, it is not unlikely, were accustomed frequently to join with those who had the right of voting, which is

probably what is meant by the early historians, when they speak of the people being present in the ancient Wittenagemote, and of their assisting and giving their consent in forming the resolutions of that assembly. As it does not appear that individuals among the merchants or traders had, independent of any landed estate, the privilege of sitting in the Wittenagemote, so there is no evidence that collectively the trading interest were in the latter part of the Anglo Saxon history, entitled to send representatives to that assembly. Of this we may be satisfied, from the particulars mentioned relative to the constitution of that council, and that the facts which are capable of being adduced, in order to shew that in the Saxon Wittenagemote, there were no representatives either from towns or from the small proprietors of land, are conclusive with regard to the whole period of the English government, before the Norman conquest.

The advancement of arts and manufactures, towards the end of the Saxon line, was indeed so considerable as to have enlarged particular towns, and to have exempted the inhabitants from those precarious duties and services to which they had been anciently subjected, and by a series of progressive improvements, the

trading people were thus gradually prepared and qualified for that political consideration which they afterwards acquired by the establishment of representatives in the national council, which was the work of a later period, when they had acquired a greater degree of opulence and independence.

The Anglo Saxon government was not calculated in any peculiar manner to secure the liberty and the natural rights of mankind.

The supreme authority in the state was originally possessed by a numerous body of landed proprietors; but the rest of the community were either slaves or tenants, at the will of their master.

CHAP. VI.

OF THE RISE AND PROGRESS OF CITIES AND TOWNS, AFTER THE FALL OF THE ROMAN EMPIRE, WITH AN ACCOUNT OF THE NATURE OF A MERCHANT'S GILD.

The inhabitants of cities and towns after the fall of the Roman Empire, were not in general more favored than those of the country; the large propietors of land seem to have lived in fortified castles on their own estates, and in the midst of their own tenants and dependants, as is still the case with many of our present opulent land owners. The towns were chiefly inhabited by tradesmen and mechanics, who seem in those days to have been but of low condition. The privileges which we find granted by ancient charters to the inhabitants of some of the principal towns of Europe tend sufficiently to shew what they were before those grants. The people to whom it is granted as a privilege that they might give away their own daughters in marriage, without the consent of their lord, that upon their death their own

children, and not their lord should succeed to their property, and that they might dispose of their own effects by will, must before those grants have either been altogether, or very nearly in the same state of villenage, with the occupiers of land in the country.

They seem to have been a set of persons who used to travel about with their goods, from place to place, and from fair to fair, like the hawkers and pedlars of the present times. At that period, in all the different countries of Europe, taxes used to be levied upon the persons and goods of travellers, when they passed through certain manors---when they went over certain bridges---when they carried about their goods from place to place, in a fair, or when they erected in it a booth or stall to stand in. These different taxes were known in England by the names of "passage, pontage, and stallage." Sometimes the king, sometimes a great lord, who had, it seems, upon some occasions authority to do this, would grant to traders, to such particularly as lived in their own demeans, a general exemption from such taxes. Such traders were then called free traders, and had a gilda mercatoria, or merchant's gild, granted them, and they in return usually paid to their protectors, an annual tax, or gild, and from

thence, persons liable to the same payment to a lord were said to be in his gild.

Of the origin and nature of these gilds. or fraternities. it may be sufficient to observe, that they were probably at first only voluntary associations, entered into by the feudal lords, for mutual protection and security, and seemed to have obtained over the greater part of Europe. That traders and others were induced to enter into similar associations, and the rapacity of their kings and lords, in the true spirit of the feudal system, levied fresh contributions in return for a more extended protection. It is also probable that these gilds, or societies, were in some measure known in England, towards the end of the Saxon line, when the advancement of arts and manufactures were considerable, but it should seem they then extended merely to exemption from tolls, and other burdensome services and payments, for the benefit of trade, as there does not appear to be any instance of the burgesses, or inhabitants of a town, being incorporated by charter before the conquest.

In those days protection was seldom granted without a valuable consideration, and this annual tax might perhaps be considered as a compensation for what their patrons might lose by their exemption from other taxes. At first

both these taxes and those exemptions seem to have been altogether personal, and to have affected only particular individuals, during either their lives or the pleasure of their protectors. In the very imperfect accounts which have been published from Doomsday Book, of several of the towns of England, mention is made sometimes of the tax which particularly burghers paid, each of them, either to the king, or to some great lord, for this sort of protection, and sometimes of the general amount only of all those taxes.

But whatever may have been originally the condition of the inhabitants of the towns, it appears evidently that they arrived at liberty, and independency, much earlier than the occupiers of land in the country. That part of the king's revenue which arose from such taxes in any particular town, used commonly to be let in farm during a term of years for a rent certain, sometimes to the sheriff of the county, and sometimes to other persons: the burghers themselves frequently got credit enough to be admitted to farm the revenues of this nature, which arose out of their own town, they being jointly and severally answerable for the whole rent.

To let a farm in this manner was quite agree-

able to the usual œconomy of the sovereigns of all the different countries of Europe, who used frequently to let whole manors to all their tenants of those manors, who were allowed to collect it in their own way, and to pay it into the king's exchequer by the hands of their own bailiff, and the being thus altogether freed from the dominion of the king's officers was a circumstance in those days regarded as of great importance.

At first, the farm of the town was probably let to the burghers, in the same manner as it had been to other farmers, for a term of years only. In process of time, however, it seems to have become the general practice to grant it to them in fee, that is for ever, reserving a rent certain, never afterwards to be augmented.

The payment having thus become perpetual, the exemptions in return for which it was made, naturally became perpetual also. Those exemptions, therefore, ceased to be personal, and could not afterwards be considered as belonging to individuals; as individuals, but as burghers of a particular burgh, which upon this account was called a free burgh, for the same reason that they had been called free burghers, or free traders. Along with this grant, the important privileges before mentioned, that they might

give away their own daughters in marriage, that their children should succeed to them, (as is stated in William the Conqueror's charter to the Londoners) and that they might dispose of their own effects by will, were generally bestowed upon the burghers of the town to which it was given. The principal attributes of villenage and slavery being thus taken away from them, they now at least became really free, in our present sense of the word freedom; nor was this all, they were generally at the same time erected into a commonalty or corporation, with the privilege of having magistrates, and a town council of their own; of making by-laws for their own government; of building walls for their own defence; and of reducing all their inhabitants under a sort of military discipline, by obliging them to watch and ward, that is, as anciently understood, to guard and defend those walls against all attacks, and surprises by night as well as by day. In England, they were generally exempt from the hundred and county courts, and all such pleas as should arise amongst them, (the pleas of the crown excepted) were left to the decision of their own magistrates.

The inhabitants of cities and burghs considered as single individuals, had no power to defend themselves, but by entering into a league

of mutual defence, they were capable of making an effectual resistance. The lords despised the burghers, whom they considered not only as of a different order, but as a parcel of emancipated slaves, almost of a different species from themselves. The wealth of the burghers never failed to provoke their envy and indignation, and they plundered them upon every occasion without mercy or remorse. The burghers naturally hated and feared the lords; the king hated and feared them too; but, though perhaps he might despise, he had no reason either to hate or fear the burghers; mutual interest, therefore, disposed them to support the king, and the king to support them against the lords. They were the enemies of his enemies, and it was his interest to render them as secure and independent of those enemies as he possibly could. Without the establishment of some regular government of this kind---without some authority to compel their inhabitants to act according to a certain plan or system, no voluntary league of mutual defence could either have afforded them any permanent security, or have enabled them to give the king any considerable support. By granting them the farm of the town in fee, he took away from those, whom he wished to have for his friends, all

ground of jealousy and suspicion that he was ever afterwards to oppress them, either by raising the farm rent of their town, or by granting it to some other farmer.

The princes, who lived upon the worst terms with their barons, seem accordingly to have been the most liberal in grants of this kind to their burghs, as is exemplified in the case of king John, who appears to have been a most munificent benefactor to the towns of England, and from whose grants our most important and popular rights have undoubtedly sprang, as is exemplified by his magna charta, and the charters to the citizens of London.

Philip, the first, of France, having lost all authority over his barons, towards the end of his reign, his son Lewis consulted with the bishops of the royal demesnes concerning the most proper means of restraining the violence of the great lords. Their advice consisted of two different proposals; one was to erect a new order of jurisdiction, by establishing magistrates, and a town council in every considerable town of his demesnes; the other was to form a new militia, by making the inhabitants of those towns, under the command of their own magistrates, march out upon proper occasions to the assistance of the king. It is from this pe-

riod, according to the French antiquaries, that we are to date the institution of the magistrates and councils of cities in France.

In countries, such as France or England, the cities had no opportunity of becoming entirely independent. They became, however, so considerable, that the sovereign could impose no tax upon them, besides the stated farm rent of the town, without their own consent. They were therefore called upon to send deputies to the general assembly of the states of the kingdom, where they might join with the clergy and the barons, in granting upon urgent occasions some extraordinary aid to the king, being generally too more favorable to his power, their deputies seem sometimes to have been employed by him as a counter balance in those assemblies, to the authority of the great lords; and from hence arises the origin of the representation of burghs, in the states general of all great monarchies in Europe.

CHAP. VII.

OF THE COMMENCEMENT AND UTILITY OF CORPORATIONS.

THE institution of forming cities and towns into communities and bodies politick, and granting them the privileges of municipal jurisdiction, is generally considered to have contributed more than any other cause, to introduce regular governments, and police, arts, and commerce, and to diffuse them over Europe; and so far as relates to corporations in England, Dr. Brady and other respectable writers are of opinion, and it seems to amount nearly to a certainty, that what we now call corporations were established posterior to the Norman conquest, and that cities and towns, as before hinted at, were first erected into corporate communities on the continent, and endued with many valuable privileges about the eleventh century, which accords with the general idea, that the practice was adopted as a system by Lewis VI. (called the Gross) (who began his reign July 26, A. D. 1108, and was cotem-

porary with our Henry the 1st.) to counterbalance the encroachments of his potent vassals, who had attempted to control him in his government, for which purpose he conferred new privileges on the towns, situated within his own domaine, which privileges are stated and generally agreed to have been charters of community, by which he enfranchised the inhabitants, and formed them into bodies to be governed by a council and magistrates of their own nomination; and it is represented, that about the same period, the cities in Germany began to acquire like immunities; that the practice spread quickly over Europe, and was adopted in England, Scotland, and the other feudal kingdoms, and laid the foundation of their present liberty and independence; for it was by the establishment of corporation charters, that men were in some measure rescued from arbitrary power, and permitted to improve a spirit of freedom in towns, and as arts increased, the number of these little republics, (if they may be so called) increased, and a spirit of liberty diffused itself from the incorporated towns, through the whole mass of the people, and ever after blazed forth at convenient seasons. It is, however, to be observed, and from what has been stated in former chapters,

it will appear, that long anterior to the institution of communities in France, charters of immunity, or franchise, were granted to some towns and villages by the lords on whom they depended; but that these were very different from such as became common in the 12th and 13th centuries. They did not erect those towns into corporations, nor establish a municipal government; those privileges contained nothing more than a manumission of the inhabitants from certain services which were oppressive, and the establishment of a fixed tax or rent called a fee farm rent, in place of those impositions which were formerly laid upon them at pleasure.

The most ancient corporation in France, is stated to have been that of St. Riquier, in Pontieu, anno 1126; and in England, London is deemed the most ancient, as appears by its various customs, and charters, and the establishment of the right of the citizens, to be exempt from tolls, and port duties, throughout the realm, as well as by the earliest charters of other cities and towns, having a saving of the liberties of the city of London usually inserted in them. But as it is evident that London had an existence long before corporations were known in England, and its inhabitants were of considerable impor-

tance in the most early ages of society, it will not be unimportant to take some further notice of its antiquity anterior to that period, it being grateful (as Mr. Entick observes in his introduction to his history), to trace a mighty people or city, such as London, back to its origin as far as the same can be warranted by approved authority.

CHAP. VIII.

OF THE ANTIQUITY OF LONDON, WITH SOME PECULIAR TRAITS OF THE VALOR OF ITS CITIZENS.

MANY authors having already written voluminous histories and surveys of this great city, and its environs, the writer's intention in this chapter is only to make some limited remarks and observations by way of introduction, as forming part of his general plan.

It has been before observed that there is comparatively little information that can be relied on, from the want of historical authority, until the invasion of Britain by the Romans, in the time of Julius Cæsar, of which some fragments of history as furnished by him and other writers, respecting the ancient inhabitants of Britain have been before given, and Sir Christopher Wren, speaking of the foundation of London, attributes it to the Britons, and observes, "to "have a right idea of London of old, it will be "necessary to consider the state of the Britons "at the time the Romans made their first "descent on the island," (which has been before

attempted in a former chapter), and with respect to London itself, it seems that the most authentic information we have respecting it, is that it was probably of the state or seigniory of the Trinobantes, which was one of the divisions mentioned by Cæsar, as before noticed, and is represented to have included the people inhabiting Middlesex and Essex, the account whereof as recorded by Mr. Stowe, (in his survey of London) from Cæsar's commentaries is as follows:

"In the mean while, the Trinobants, which "was then the strongest city well near of all "those countries, and out of which city, a "young gentleman called Mandubrace, upon "confidence of Cæsar's help, coming unto him "by the main land of Gallia, (now called "France), had thereby escaped death which he "should have suffered at Cassibelan's hand, as "his father Immanuence had done, (who had "reigned in that city), sent ambassadors to Cæsar, "promising to yield unto him and to do what "he should command them, instantly desiring "him to protect Mandubrace from the furious "tyranny of Cassibelan, and to send him into "the city with authority to take the govern-"ment thereof upon him. Cæsar accepted the "offer, and appointed them to give unto him forty

" hostages, and withall to find him grain for his " army, and so sent he Mandubrace unto them."

" And afterwards when Cassibelan sent am- " bassadors by Comius of Arras, to Cæsar, to " entreat with him concerning his own sub- " mission, on which occasion Cæsar took hos- " tages, and assessed the realm of Britain to " a yearly tribute, he gave straight charge to " Cassibelan that he should not seek any re- " venge upon Mandubrace, or the Trinobants, " and so withdrew his army to the sea again."

It does not, however, appear that any particular name was given to London at this period, and divers learned men (as represented by Mr. Stowe), have thought that Civitas Trinobantum is not well and truly translated, " the city of the Trinobantes," but that it should rather be " the state communalty or seigniory of the Trinobantes," for that Cæsar in his commentaries useth the word " Civitas" only for a people living under one and the self same prince and law; but whatever it was before, it is evident that after Britain was reduced into a province by the Romans, by whose means the seeds of civility were sown all over Europe, this city began to be renowned; for Tacitus, who, first of all authors named it Londinum, saith, that in the 62nd year after the christian æra, " it was

" most famous (according to the idea of those " times), for the great multitude of merchants, " provision, and intercourse." It does not, however, seem to have been walled 'till about the year 306, and as some suppose, by Helen the mother of Constantine the Great, and after this, historians are silent respecting London for a considerable time; it, however, propabably was a Roman colony or province, for some centuries, and was variously called at different periods, by different authors, but by whatever name it was originally known, during the heptarchy it was included in the east Saxon division, and became the residence of Egbert, the first sole monarch of England, about the year 819, and was destroyed and burnt by the Danes, about the year 839, and afterwards repaired and made again habitable by the renowned Alfred, who committed the custody thereof unto his son in law, Ethelred earl of Mercia, unto whom he had before given his daughter Ethelfled to wife, who it is supposed had powers superior to those of an ordinary governor, and held the city in fee.

In the year 938, Constantine, king of Scotland, having invaded Northumberland, Athelstan marched against him with a powerful army and a terrible battle ensued, which continued from

morning 'till night, when Constantine being slain, victory was declared in favor of the English; and to the intrepid valor of the Londoners, under the command of their brave general Turketul, this great conquest was chiefly owing, for it is reported that their behaviour was valiant beyond description.

In the year 982, the Danes laid siege to London and greatly damaged it, but could not make themselves its masters; and it is stated that at this time there were but few houses within the walls of London, and that those were scattered about in a very irregular manner, the greater number of buildings being to the west of Ludgate.

About the year 994, the Londoners shut up their gates and defended Ethelred within their walls against the Danes.

In the year 1036, upon the death of Canute, the English in general declared for Edward the son of Ethelred, but the city of London espoused the interest of Harold Harefoot, one of Canute's sons, and they afterwards agreed, for the peace of the realm, that Harold and his brother Edward should divide the kingdom; after which a Wittenagemote was holden at Oxford, where earl Leofric and most of the thanes on the north side of the Thames, with

the Lidromen of London, (so called) chose Harold for their king; by which term Lidromen, some authors are of opinion, we are to understand the directors, magistrates, or leading men of the city, and it is said that the Saxon annals declare, " that none were admitted into the as-
" sembly of election but the nobility and the
" Lidromen of London."

Previous to the accession of William the Norman to the kingdom of England, Edward and Mercar, who had escaped from the field of battle, proposed to the Londoners to place the crown upon the head of Edgar Atheling, which was adopted by the majority, and it was determined to defend the city against the duke of Normandy, and William was actually arrived in Southwark, when the Londoners sallied out upon him, and fought so resolutely, that some authors state, the Londoners held him out until he had given good assurance that he and his people would pass through the city without tarrying, which was accordingly observed: many other acts of their valor are to be met with in the various histories, which are recorded, as much to the honor of the citizens, as they were beneficial to the kingdom, but the above must suffice, the writer having brought his observations down to a period, from whence history is

much more enlarged and better understood, and therefore it is his intention now to confine his views to those parts which more immediately relate to the municipal rights of the citizens of London, first making this preliminary observation, in the words of one of its historians, "that the glory and splendor of this noble "city, are so obvious to the eyes of the curious, "that they cannot rationally conceive it to be "the work of a day, or an age, but that like other "eminent cities, it hath risen up by degrees to "its present greatness, through a long tract of "time, and the concurrence of many consi-"derable circumstances to make it famous."

CHAP. IX.

OBSERVATIONS ON THE EARLY GOVERNMENT OF LONDON, AND ON THE CHARTERS OF WILLIAM, (STILED THE CONQUEROR), AND HENRY THE FIRST, ALSO AS TO THE ANCIENT MODE OF ELECTING THE MAYORS AND SHERIFFS AT THE FOLKMOTES, BY THE CITIZENS, BEFORE THE INCORPORATION OF THE COMPANIES BY CHARTER.

It is not known historically with certainty, what the civil government of London was anterior to the Norman conquest, though it is generally supposed there was a perpetual magistrate appointed by the prince, and not elected by the citizens, for Mr. Stowe states "that upon the "decease of Ethelred, before noticed, the city "with all other possessions pertaining to him as "earl of Mercia, returned to king Edward, sur-"named the elder, and so remained in the "king's hands, being governed under him by "Portgraves, or Portreeves, which name, he "says, is compounded of the two Saxon words, "'Porte' and 'Gerefe' or Reve. Porte be-"tokening a town, and Gerefe signifying a "guardian ruler, or keeper of the town," and in illustration of this point, Mr. Stowe men-

tions the names of some in the time of Edward, down to the conquest; and further, we find that William, (stiled the conqueror), being received into London with a solemn procession, he in return at the intercession of William (the Norman), Bishop of London, granted a charter, as it is termed, to the citizens, or burgesses, in the Saxon language, which is still in existence, and preserved amongst the records of the city, and may be considered as the most ancient written document that is now to be found respecting the city of London: which, as translated by some authors, into modern language, reads thus:

"William the king, greets William the "bishop, and Godfrey the portreve, and all the "burgesses within London, both French and "English; and I declare that I grant you to be "all law worthy as you were in the days of "king Edward, and I grant that every child "shall be his father's heir, after his father's "days, and I will not suffer any person to do "you wrong.

"God keep you."

This instrument, however, appears to be nothing more than a declaration of liberties, and charter of protection, by which, the burgesses of London, (which must mean the inhabitants, at large, as it extends both to French and

English), were continued upon the same footing as they had been in the days of Edward the Confessor, and which liberties were no doubt deemed of considerable importance in those days, inasmuch as some authors state, that, that for which the citizens of London made so great labor, was that they might use the laws of Edward the Confessor.

There is also another instrument, called a charter, which is likewise preserved amongst the records of the city, but which merely relates to a grant of land at Gadsden, in Hertfordshire, to the people, his servants (without mentioning who they were), and is in fact of no real importance in point of privilege, though it may serve as an historical document, of the form of a grant, in those times.

This instrument is addresed to William the bishop, and Sweyn the sheriff, and all his thanes, (who were of two classes, the one consisting of heads of families, who had acquired allodial property, the other of such retainers as held lands by a military tenure, either of the king, or of any other allodial proprietor), in east Saxony, (which during the heptarchy contained the counties of Essex, Middlesex, and part of Hertfordshire), and it may be worthy of observation that no mention is made therein of the

portreve, which seems to imply that the sheriff and portreve had at this time separate jurisdictions, and that the portreve's office was confined to the port or town.

It may also be worthy of notice, that about this period, (viz. the year 1086), William of Malmsbury, who wrote at that time, calls London "a rich and noble city, frequented by merchants and factors of all parts."

And William Fitzstephen, who is reported to have lived under the reign of king Stephen, and of Henry the second, says,

"This city, even as Rome, is divided into "wards; it hath yearly sheriffs instead of con- "suls; it hath the dignity of senators and alder- "men; it hath under officers, and according to "the quality of laws, it hath several courts, "and general assemblies upon appointed days."

And Stowe adds, "thus much for the antiquity of sheriffs, and also of aldermen, in the several wards of this city, may suffice;" and then states the names of bailiffs, and after that of mayors.

It is proper farther to remark the names of the portreves and provosts, are also given by Stowe, in the reign of Henry I; and it should seem too, that at this period, these officers were appointed by the crown, and that it was generally for money, (though sometimes

from other motives), that the very important privileges of nominating sheriffs and mayors, were afterwards granted to the citizens, which is consonant with the proceedings in the time of Henry I. (whose charter is the most early relating to those matters), by which it appears that in the year 1099, Henry I. with the view (as historians relate, of obtaining the assistance of the citizens of London, to secure him upon the throne, of which he is said to have unjustly deprived his elder brother Robert), granted a charter, which was peculiarly beneficial to them; and although the motive of Henry in granting such charter appears to have been dishonorable, yet it seems very strongly to imply that the powers and privileges which were thus granted to the citizens, were not before in their possession, but were derivable from the power of the crown, some of which it may be proper here to notice, and observe upon; but the printed charters of London being already in the hands of most of its citizens, it is the writer's intention to state only such parts of this early charter, as may elucidate some points worthy of notice, viz.

"The granting Middlesex to farm, whereby "the citizens had the power of chusing the "sheriff out of themselves.

"Also, that the men of London should be

" quit and free, and all their goods throughout " England and the ports of the sea, and of and " from all toll, and passage, and lestage."

" That the barons and citizens should peace- " ably and quietly, have and hold their sokes, " with all their customs, so that the strangers " who should be lodged in the sokes, should " give custom to none but to him to whom the " soke appertained, or to his officer, whom he " should there put.

" Also that there should be no more mis- " kenning in the hustings, nor in the folkmote."

The reason usually given for the granting the power to the citizens of London, of electing the sheriff of Middlesex is, that Middlesex being at that time covered with woods, the perpetrators of crimes in the city were accustomed to retire into the county and escape justice; but, be that as it may, it implies very strongly that at the time this charter was granted, the power of the appointment of the sheriff of Middlesex, was in the crown, otherwise the citizens of London could have derived no legal authority from this charter, inasmuch as if the freeholders of Middlesex had then the right, it was an usurpation on their right to make the grant in favor of the citizens.

The exemption from toll passage, and lestage,

(which right is enjoyed by the resident freemen of London, at this time throughout the kingdom, by virtue of this and other grants), were duties payable at fairs, or markets, and the outports, by traders, and merchants, (as is more fully stated in the chapter relating to the rise and progress of cities and towns, after the fall of the Roman empire), and marks more particularly the state of the traders of London, at that period; and the enjoyments by the barons and citizens, of their several sokes, meant that the barons, (who are by some interpreted to be aldermen), in respect of their wards, which were then alienable, and were sold, assigned, and conveyed, like other possessions, whereby the purchaser became the proprietor of the ward, and was intitled to all the privileges and benefits resulting therefrom, and particularly by this charter, should have the power of preventing any of the king's household or other person from taking lodging in the city by force, by which means the citizens got rid of a very great slavery, for before that time the king's domestics, and whom else he pleased, were by the portreve, the king's officer, quartered upon them at discretion; and, it likewise appears, that it was part of the duty of the alderman, or proprietor of the ward, to assign proper lodgings for

strangers in their respective wards, for which they or their deputies received a certain pecuniary reward.

As to the Hustings, it is stated by lord Coke, in his 4th Institutes, folio 247, to be the highest court of record, in the city of London, and was anciently holden for determining all pleas, real, personal, and mixed; and in which outlawries were and still are pronounced.

As to the Folkmotes, they appear to be of Saxon origin, for it is reported by learned authors, that at Easter, the Saxons had their folkmote, or the assembly of the people, which was a confederation of citizens, for the purposes of fidelity, and allegiance to the prince, and for complaints of grievance. This assembly was once a year, in the beginning of May, or on any other emergency; authors, however, state they were of different kinds, and it is supposed by some historians, that long before they had obtained any charter, the Londoners held folkmotes, and probably under the authority of the portreve.

Manwood mentions Folkmote, as a court holden in London, wherein all the folk and people of the city did complain of the mayor and aldermen, for misgovernment within the said city; and, according to Kennet, it was a common

council of all the inhabitants of a city, town, or borough, convened often by sound of bell to the mote hall, or house, and that afterwards the city folkmote was swallowed up in a select committee, or common council, as the county folkmote was in the sheriffs tourns. It also appears by Entick, that in the year 1256, a folkmote was summoned at St. Paul's cross, by John Mansel, one of the king's chief justices, to consider a roll of accusations against certain magistrates; and that the mayor, sheriffs, and aldermen were called upon to attend the king at Westminster, and their defence was, that the roll was made out by men chosen by the whole commonalty, and sworn to do justice, and sealed with the common seal of the city, (which common seal was granted to the commonalty by Henry III. in the year 1225;) and he adds, that "the folkmote was a general "assembly of the people, or commonalty in "St. Paul's Church yard, to which they were "called by the ringing of a certain great bell, in "a tower erected near the east end of St. "Paul's church, ordered by the mayor and "aldermen, which meeting of the people was "deemed the supreme assembly of the city, "with power to impeach the magistrates for "misgovernment; and finally to examine and

"determine the liberties and customs of the "city by a majority of voices, and to do seve- "ral other acts."

There does not appear to be any doubt also that these folkmotes were the assembly in which the citizens of London used originally to elect the mayor and other officers; for in the year 1266, (which was several years after king John's charter, whereby the citizens were empowered to elect the mayor,) there was a difference between the magistrates and commonalty, concerning the election of a mayor, and at the folkmote, the aldermen and chief citizens declared for Allen Souche, but the commons would choose Thomas Fitz Thomas, who was then confined at Windsor; but Souche's party, who was supported by the court, carried their election by force, and committed many of the other party to prison. Also, in the year 1274, Sir Walter Harvey was chosen mayor in a folkmote, but was soon after degraded from his office of an alderman, and rendered incapable of sitting in the city council for bad practices.

London being a corporation by prescription, which is the most ancient denomination known to the law of England, and which means a corporation prior to the first year of the reign of Richard I. (whose reign commenced in the

year of our lord 1189) called by lawyers the time of legal memory; and the grant of the choice of sheriffs and mayor being to the citizens or barons of London, who from the year 1213, had certainly the power of choosing their own chief magistrate; and for which, they are represented to have paid 2000 marks, (money being as before observed, the principal medium at those times, by which privileges were obtained,) it seems not only evident that the powers of appointment of the ruler of the city, (by whatever name he was known) had for some time at least been in the crown, Henry Fitz Alwin, who was appointed by the king, having continued mayor from the 1st of Richard I until the 15th of king John, a period of upwards of 24 years; and before the charter of John was granted, for the election of mayor by the citizens, but also that these elections were made in the folkmote, or general assembly, by the aggregate body of the citizens: the very grant of freedom from toll and other customs, so early as Henry I. (and which now belongs to every freeman residing within the ancient walls of the city) constituting them freemen, free traders, or free citizens, and the subsequent grants of electing their chief magistrate, being made to them in that character, is a confir-

mation that the original electors were the body of freemen or free citizens at large, without any other qualification or superaddition; and that then, as now, the king and the aldermen had some negative or other power in respect of the choice, for in the case of Allen Souche before referred to, the contest was between the magistrates and commons, the aldermen and chief citizens declaring for Souche, and the commons for Fitz Thomas; and that prior to this, in the year 1240, (at which period, the aldermen of London were chosen, and changed yearly) Gerard Bat was elected mayor, and a second time, in the year 1241; but the king, (Henry III.) would not admit him, on an information that he had extorted money from the brewers, bakers, and victuallers.

It cannot with certainty be stated, whether the citizens of London had the election of the sheriffs of London, before the year 1199, though it is by some writers supposed that they purchased the right from Stephen, but in that year, king John, by his third charter, "grants "to them the power of making sheriffs, whom "they will amongst themselves, and of re- "moving them when they will, and also grants "and confirms to them both the sheriffwick of "London and Middlesex, with all the customs

" and things to the sheriffwick, belonging with-
" in the city, and without, by land, and by
" water, to hold to them and their heirs of the
" king, and his heirs by the fee farm of £500,"
(which fee farm rent is still paid by the sheriffs half yearly, and having been long since sold or given away by the crown, is or lately was, the property of Sir William Rush of Wimbledon), which was previous to the charter, granting and confirming to the barons of London the choice of a mayor, such last mentioned charter being granted in the year 1208; and soon afterwards, in the year 1225, Henry III. granted the commonalty of London a common seal.

The citizens of London were anciently called barons, and it is worthy observation, that the same king in the charters, relating to the sheriffs, calls them citizens, and in the subsequent charters for the election of a mayor, styles them barons, which agrees with what the learned authorities state, that " barons" in some cases means the freemen, or free citizens.

CHAP. X.

AS TO THE ANCIENT MODE OF ELECTING THE REPRESENTATIVES FOR THE CITY IN PARLIAMENT.

It appears by two precedents stated in Dr. Brady's treatise on English boroughs, that they were elected anciently by the mayor, aldermen, sheriffs, and community, or commonalty, and the instrument certifying the election, sealed with the common seal, the 1st of which is in the 12th year of Edward II. A. D. 1319, (prior to the incorporation of the companies, by charter) and the other, in the 27th year of Edward III. A. D. 1354; by the first, it appears that three persons were returned, and by the second, only two persons, (but in lib. II. folio 254, it is reported, that in common council, the mayor and aldermen chose two aldermen, and the commons chose two to go to parliament) andas it is a matter of some curiosity, the returns as stated in English, by Dr. Brady, are subjoined; the first return was in these words:

"To the most excellent prince and their "most dear lord, the lord Edward, by the grace

" of God, the most illustrious king of England, " lord of Ireland, and duke of Aquitain, John " De Wengrave, mayor of the City of London, " the aldermen, sheriffs, and the whole com- " munity of the same city themselves, and " theirs. Your excellency may know we have " assigned our beloved fellow citizens, John " De Charleton, William de Flete, and Roger " le Palmere, or two of them, and have given to " them, or two of them, full and sufficient power, " by these presents, to do in this your instant " parlement to be holden at York, three weeks " after michaelmas, what shall be ordained in " the aforesaid parlement, by common advice, " according to the form of your writ, lately to " us directed. In witness whereof, we have " made these our letters patents, to be sealed " with the seal of our community, or common- " alty aforesaid, dated at London, the 6th day " of October, in the 12th year of your reign."

The second return was as follows :

" We have caused to be chosen, Thomas " Leggy, and Thomas Dolsley, two citizens of " the city of London, by assent of the same " city, to appear before you in the council, " next to be holden, having sufficient power " for themselves, and the community of the " foresaid city, to treat consult, and consent to

" those things, which by divine clemency shall " happen to be ordained by common advice."

" The foresaid Thomas Leggy hath given se- " curity for his being in parlement, by John de " Cantebrigge, and John Herewardstoke; and " the foresaid Thomas Dolseley hath done the " same by Thomas Wilchir, and Roger de " Reygate."

" The answer of Adam Franceys, mayor, and " John de Stodge, and John Pecche, sheriffs."

It, therefore, appears, that at these periods, the mayor, aldermen, sheriffs, and community, or commonalty, were the electors; which term, community, or commonalty, according to Dr. Brady, always signified the mayor, aldermen, and common council, where they were to be found; it is, however, apparent from history, that the citizens of London had a grant of a community, so anciently as the 2nd year of Richard I. (A. D. 1190,) which, in general terms, is said to have consisted of the chief and ruling inhabitants of cities, burghs, and towns, that enjoyed the privileges of liberty of trade, exemption from tolls, the lease of the Borough at a fee farm rent, &c. and Dr. Brady also says, that from the books of the City of London, it appears that the community consisted of two persons from every ward in the time of Edward I. and he adds, " such were the electors, and

" of such was the community to consist, some-
" times the numbers of the communia, (which
" word is more frequently used in their books
" than communities) was made up of two, four,
" six, and eight, out of every ward, or out of
" some wards, more ; others fewer, according to
" the quantity of the ward, and the summons,
" (at least direction) of the mayor, or of him and
" the sheriffs ;" and he seems to be of opinion, that these were not the common council only, but persons specially appointed to join with the common council in such elections, and adds, " that these elections are recorded by various " expressions, and probably were not always " made according to the same exact form, until " the 15th of Edward IV. when the master, " wardens, and liveries, of the several compa-
" nies, were taken in, so that since that time " the elections of the mayor and sheriffs, &c. " were made by the mayor, aldermen, common " council, and them, according to the act of " common council then made."

The mode of election is, however, now established by the act of parliament of the 11th of Geo. I cap. 18, and the city representatives have for a length of time consisted of four persons, who are citizens, and elected by the livery, under the restrictions contained in that statute.

CHAP. XI.

OBSERVATIONS RESPECTING THE ALDERMEN, AND COMMON COUNCIL, AND THEIR RESPECTIVE COURTS, AND POWERS.

THE ALDERMEN, who must at the time of their election, be freemen and citizens, are now elected as vacancies occur, by the freemen householders of the several wards, who pay scot and bear lot: their office is very ancient. They hold wardmotes on St. Thomas's Day, for the annual election of common council men, and other ward officers; and sometimes at other periods, for the purpose of instructing the representatives in common council on public matters, and on other occasions.

The aldermen are also assistants to the mayor in council, and may be called the senators of the city. They also form a constituent part of the court of common council, and the assembly of the livery at the common halls, (as one of the representative bodies of the freemen) and when they hold their court, (which is a court of record) have divers powers vested in them, as such representative body of the free-

men, in the nature of a court of appeal, to decide on various rights applicable to the elections of common council men, and otherwise. They have also power to amove any of their own body for sufficient cause; but, as it is not the writer's intention further to dilate on their particular powers, these general observations must suffice.

THE COMMON COUNCIL, is the complete representative corporate body, comprising the mayor, aldermen, and a certain number of freemen, inhabitants of the wards, (called the commons) elected at the wardmotes, by the freemen householders, who pay scot and bear lot; and is, legally speaking, the voice of all the citizens of London collectively, whose acts are binding on the citizens, by the affixing their common seal to all public documents that are to be operative on the corporation.

The common council, though varied from time to time, in point of numbers, is a prescriptive body, by which is meant, that it has existed from time immemorial, (and was probably coeval with the corporation itself) and its being such prescriptive body, is not only generally admitted, but appears by the pleadings in the quo warranto case, in the reign of Charles II. and also in the return of the custom of

London, in the case relating to the amotion of Alderman Wooldridge, in the year 1785; and it is also expressly mentioned to have had existence as early as the year 1284, (as quoted in Maitland, folio 105, and other writers, with a reference to Liber Albus, a book of record, in the town clerk's office). At which period, the then titles of the 24 wards, and of the aldermen or proprietors, (by whose names they were then mostly called) and the 44 persons, composing the then common council, are stated at length; and it is added "they were to be consulted by the aldermen, and their advice to be followed in all affairs of public concern relating to the city of London;" and it is also added, that "they were at that time sworn into their office."

The court of common council is also not only deemed the supreme and legislative court of the city, but as Sir Edward Coke (who was lord chief justice of England, and sometime recorder of London) observes, "this court "hath some resemblance of the high court of "parliament, for it consists of two houses, "viz. the one of the mayor and aldermen, and "the other of such as be of the common as-"sembly, resembling the whole commonalty of "London."

"In this court, (he adds) they may make

" constitutions and laws for the good govern-
" ment of the city, so as these constitutions
" and laws be not contrary to the laws and
" statutes of the realm; and these being made
" by the mayor, aldermen, and commonalty, do
" bind within the city and liberties thereof,"
which is evidenced by the various acts of common council that have been passed from time to time, as well with respect to the regulating the elections in the common halls, as of the mayor, sheriffs, aldermen, and common council men.

This court has also been considered as the great deliberative body of the citizens, in their corporate capacity; and comprising men of different political opinions, and elected by persons of the same description, may be fairly taken as the representatives of all classes of citizens, of whatever party sentiment they may be, who have the opportunity annually of exercising their franchise, in such way as they may think proper.

It is also worthy of observation, that upon all proper occasions, the members of this court have been the zealous supporters of true constitutional liberty; and manifested a well governed zeal for the common welfare, as may be evidenced by a reference to the numerous pe-

titions and addresses, and the instructions to the representatives in parliament that are recorded in the history of their transactions: many of which are to be found in the book of addresses, printed in the year 1778, by order of the court of common council; and breathe as strong and independent language as becomes the free subjects of a country regulated by wise and wholesome laws. And it may further be proper to observe, that the mayor, aldermen, and common council, was recognised as the constitutional body in the city of London, by the act of parliament of the 13th of Charles II. stat. i. ch. 5, (which was not repealed by the bill of rights,) to sanction petitions and addresses, to the throne and the houses of parliament, on public concerns; which, as Sir William Blackstone observes, "may be one reason, "(among others) why the corporation of Lon-"don has since the restoration usually taken "the lead in petitions to parliament, for the "alteration of any established law," and is no doubt one of the causes why their petitions and addresses, (proceeding from the constitutional corporate body of the metropolis of the British empire) have been uniformly received on the throne, and answers given thereto, at the time of presentation.

CHAP. XII.

AS TO THE RIGHTS OF THE LIVERY, AS A REPRESENTATIVE BODY, IN MATTERS OF ELECTIONS; ALSO ON THE POWER OF THE MAYOR OVER THE COMMON HALLS FOR SUCH ELECTIONS; AND THE INTRODUCTION OF THE ACT OF PARLIAMENT FOR REGULATING ELECTIONS IN LONDON.

HAVING before taken some notice of the nature of gilds, or fraternities, it will be proper here to observe, that it does not appear that any of the companies, as distinct societies, were incorporated by charter, earlier than the year 1327, when the goldsmiths are reported to have been first incorporated; some of the other companies are nearly of equal standing, but many are much more modern; some are livery companies by usage, others are so by charters; and others have been made such by the court of lord mayor and aldermen, on applications to that court at different periods, of which there are numerous instances on record in the city books. Some of the rich or great companies have the number of their livery limited, and only permit persons to come on by rotation or ballot (for which there is frequently a regular canvas,) and it is often many years before cer-

tain members can obtain the liveries of those companies; and many of the inferior companies who want money, compel their members, without limitation, and sometimes much against their will, to take up their livery, at an expence which they cannot afford; on which account, many persons who are neither householders or residents in the city, are elected to a franchise, which they cannot legally exercise.

Stowe intimates respecting the origin of the livery; "that anciently they were appointed "by the mayor and sheriffs, for (he says) they "of any company who would have the mayors "livery, used to signify the same to the compa-"nies clerk, and put 20s. at least, as a benevo-"lence, into a purse, with their names, which "the wardens of the company delivered yearly "to the mayor, by the 1st of December. For "which the mayor sent every person four yards "of broad cloth, rayed or striped, thwart with "a different colour, to make him a gown; which "gowns were called rey gowns, and were the "livery of the mayor, and also of the sheriffs, "and only differed from the other in colour," and when a person is admitted on the livery, he is now said to take the clothing of the company.

There does not appear to be any mention

made of the livery, till about the year 1467, but more particularly in the 15th of Edward IV. (A. D. 1476) when (as before observed) the master, wardens, and liveries, of the several companies, were taken in, at the elections of the mayor and sheriffs, &c. which, after that period, were for a length of time, made by the mayor, aldermen, common council, and livery, according to the act of common council then made.

It also further appears, that in the year 1650, there was a great controversy whether the right of electing lord mayors, sheriffs, &c. rested in the lord mayor, aldermen, and the freemen in general, by their representatives to be chosen in every ward, or in the mayor, aldermen, common council, masters, wardens, and liveries of the several companies; which was managed by Sir Matthew Hale, and Mr. Sergeant Maynard of council for the companies, and Major John Wildman, and a Mr. Price, agents and speakers for the freemen, before the lord mayor, aldermen, and common council, (under whose authority, the livery, in the year 1476, were empowered to assist in such elections) but in order that the same may be better understood, copies of the petitions presented on that occasion are introduced, the one signed by the principal members of the 12 companies, and the

other purporting to be the petition of divers freemen inhabitants of the city.

COPY OF THE PETITION FROM THE COMPANIES BEFORE REFERRED TO.

" To the Right Hon. the Lord Mayor, of the " City of London, and to the Right Worship- " ful, the Aldermen, his Brethren, and the " Commons, in Common Council assembled.

THE HUMBLE PETITION OF THE SEVERAL COMPANIES AND SOCIETIES OF THE CITY OF LONDON.

" *Humbly Sheweth*,

" THAT whereas it appeareth that hereto- " fore for divers years, many great differences " did arise within this city, touching the election " of the lord mayor and sheriffs, to the great " disturbance of the peace thereof; the said " elections being made divers and several ways, " and with continual alterations, and often dis- " turbances: viz. in the seventh year of king " Edward III. by the mayor and aldermen, to- " gether with the most sufficient men of every " ward; in the 8th year of the said king, (as " the king's proclamation then commanded) " by the aldermen and most discreet and ablest " citizens of the city; in the 28th year of that " king, by the mayor and all the aldermen, and

" 12, 8, or 6, of every ward, according as the " ward should be great or small, of the richest " and wisest men of every ward; in the 50th " year of the said king, by a certain number of " the goodmen of the several mysteries, (their " names being certified by the several compa- " nies); in the eighth year of king Richard " II. by the common council, and the most " sufficient men of the city; in the 9th year " of that king, by those as should be summoned " of the most sufficient men of the city, or of " the common council; in the 7th year of " king Edward IV. by the general council, the " masters and wardens of every mystery of the " city, coming in their liveries, and by other " good men, especially summoned; and so the " said unsettled elections continued with many " disturbances until in the 15th year of the " said king, Edward IV. That the same election " was settled by authority of this honorable " court of general council, by an act then made, " that the master and wardens of the mysteries " of this city, meeting in their halls, or other " fit places, and associating with the good " men of the company, clothed in their last " liveries, should come together to the guildhall " of this city, for the election of the mayor " and sheriffs; and that no other but the

" good men of the common council of the city,
" should be present at the said elections: which
" course and custom hath been ever since
" yearly used and continued, to the honor,
" peace, and happiness of this city, and the
" well settled government of the same.

" And forasmuch as the petitioners are given
" to understand, that there is an endeavouring
" to deprive and take from them, that, their an-
" cient and lawful right, for the election of
" lord mayor and sheriffs, which for near two
" hundred years together, they and their pre-
" decessors, (the liverymen of the several com-
" panies) have lawfully and quietly enjoyed as
" belonging to them without any question or
" disturbance.

" Their humble desire and request therefore is,
" that this honorable court will be pleased, to
" take their just cause into your serious con-
" sideration, that as they are for the most part
" the ancientest and most able citizens of this
" city, and do undergo (as always they have done)
" the greatest part of the charge and service
" within the same; so they may not be put from
" their right of election, as they and their pre-
" decessors liverymen have, (without alteration
" or disturbance, lovingly and peaceably), held
" and enjoyed ever since the said act of the 15th

" of Edward IV. being near two hundred years,
" as aforesaid; or be discouraged from bear-
" ing charge, giving attendance and performing
" services, as they have always done, and per-
" formed for the honor and good of this city, and
" they shall according to their duties pray, &c.

" T. Chamberlain " William Barbe	Mercers
" Samuel Harsnet " William Hulme	Grocers
" Francis Peck " Peter Jones	Drapers
" Thomas Lusher " Gyles Baggs	Fishmongers
" John Terry " John Perrin	Goldsmiths
" John Garrard " John Southwood	Skinners
" George Alpers " Richard Orme	Merchant Taylors
" John Green	Haberdasher
" John Redding	Salter
" R. Cravenor	Ironmonger
" William Field " William James	Vintners
" John Mills " Edward Chard	Cloth Workers

" J. Sadler."

COPY OF THE PETITION OF THE FREEMEN BEFORE REFERRED TO.

" To the Right Honourable the Lord Mayor,
" Aldermen, and Commons, in Common
" Council assembled.

THE HUMBLE PETITION OF DIVERS FREEMEN INHABITANTS OF THIS HONOURABLE CITY.

" *Sheweth*,

" THAT whereas the ancient liberties of the " city did admit only freemen of the same, to " have their vote in the choice of the supreme " magistrates thereof, the imposition of the " governors upon a people without their volun- " tary election, importing the prevalency of " mere tyranny, and slavery; and whereas the " liverymen of each company thereof not cho- " sen either by the city, or their respective " companies, and therefore not representees, " either of the one, or the other, have for many " years past, imposed such supreme magistrates " upon the same city, as they pleased, without " the suffrage of the freemen thereof, either by " themselves or representees chosen for that " purpose; and for which end, your petitioners " humbly conceive this court hath been con- " stituted and sworn, upon the election of the " representative members thereof in their several " wards."

" The premises considered, the petitioners " humbly pray, that by an act of this honor- " able court, such a competent number of re- " presentees may be annually chosen by the " freemen of every ward, in their respective " wards; who, together with the common " council men, may be authorized to choose " the supreme officers of this city, annually for " the time to come. And your Petitioners " shall pray, &c.

The substance of the arguments on behalf of the companies petition, appears to have been :

That there had been a succession of elections by the mysteries or companies, then near 200 years.

That the charter did not grant to the citizens a right of representation from the wards.

That the aldermen and common council, who were part of the electors of the mayor, &c. were then chosen by the wards.

That the 12, 8, or 6, were not chosen by the inhabitants, but summoned by the mayor.

The substance of the arguments on behalf of the freemen, was :

That by custom, the election of the chief officers of the city, had been by the lord mayor, court of aldermen, common council, and the wards of the city, and not by the liverymen of the several companies.

That the inhabitants, with the lord mayor, court of aldermen, and common council, ought to have right of election by representatives from themselves, and not the liverymen, many of whom may live at great distances.

That the freemen pay scot and lot, and are bound to assist the chief officers of the city; but liverymen not living under these bounds, are not under this obligation.

That the city being distributed into wards, questmen, jurymen, constables, and scavengers, are all chosen by the wards; and that it was most necessary for the well government of the city, that the chief officers of the city should be chosen by representatives from every ward.

If there be any miscarriage in government, the citizens living in the city must be taxed, and pay any fine for misgovernment, and therefore it was most fit they should have their vote in election.

That if any accident happened by fire, or the miscarriage of one or more of the chief officers: if it should so fall out that the treasure of the chamber should be exhausted, it was a question who must be responsible for it, the liverymen of the several companies, or the whole wards, and the inhabitants thereof.

That there was an act of common hall, and

general assent, that the election should be from the wards, but no such act or general assent that the liverymen should be the electors.

It appears, that after these arguments, the matter was dropped, without the court coming to any conclusion or determination thereon.

In the very next year, however, an alteration seems again to have taken place, by the following act of common council; which again changed the right of election, from the mysteries to the wards; which, though not now of any validity, yet as it is declaratory of the sense of the then common council, who had, most probably, had the matter before them, appears to be worthy of insertion.

(November 4th 1651). "Whereas by the "ancient charters granted and confirmed to this "city, the election of the mayor, sheriffs, and "other officers of the said city, ought to be by "the citizens or commonalty; whereby it is evi- "dent that the commonalty, either personally, "(if without confusion it might be done) or "their representatives, chosen by them for that "purpose, were to have votes on all such elec- "tions. But of later times, the masters, war- "dens, and liveries, of the several companies of "this city, have used and taken upon them, "(with the exclusion of all other citizens) to

" make the said elections, which practice of
" theirs seems to be grounded upon an act of
" common council, made the 23rd day of Sep-
" tember, in the 7th year of king Edward IV.
" before which time, the same elections had
" been made by certain number of persons,
" chosen out of every ward, for that purpose,
" as appeareth by an act or order of the com-
" mon hall, made in the 20th year of king Ed-
" ward III. whereby to avoid inconveniences,
" which happened before that time, in general
" assemblies of the citizens, the method of
" elections by representatives was appointed;
" now, forasmuch as divers companies of the
" citizens of this city, have no liveries at all,
" and so have no manner of vote in the elec-
" tions by liveries; and for that, by the con-
" stitution of most of the other companies,
" the liveries thereof are not chosen by the
" whole brotherhood, but by a few, as namely,
" the wardens and assistants only, and thereby
" the greatest part of the citizens, members of
" those companies, are also excluded from
" having any vote, either in person or repre-
" sentation, in the elections before mentioned,
" and so that great privilege of choosing their
" mayor, sheriffs, and other officers, is wholly
" taken away from them, to their great grief,

" occasioning thereby their often complaining;
" for remedy whereof, and to the intent, the
" ancient charters of this city, touching elec-
" tions, may be pursued and kept inviolable,
" be it enacted and ordained, that from hence-
" forth, the election of the mayor, sheriffs,
" burgesses of parliament, and all officers of or
" belonging to this city, formerly used to be
" chosen in common hall, shall be made in the
" common hall of this city, at such times as
" hath been formerly used in that behalf, and
" by such persons, and in such manner as is
" hereunder mentioned; that is to say, that
" the aldermen and common councilmen of
" every ward of this city, and the like number
" of honest men of each ward, to be chosen
" yearly, for that purpose, in the wardmote, to
" be held by the inhabitants of each ward, as
" touching any such election, shall for ever
" hereafter be the only electors, of and in every
" such election, in the common hall, and shall
" be from time to time, returned by the ward-
" mote inquest of every ward, respectively, in
" their representations, as representatives and
" electors for and on the behalf of the inhabit-
" ants of the same ward; and shall be duly
" summoned to the common hall, when any
" election is to be made there, by the lord

" mayor of the city, for the time being, or his " officer, thereunto appointed; and that every " election of any of the persons aforesaid, " which shall be made by the said aldermen, " common council men, and other persons to " be chosen in every ward, for that purpose, or " by the major part of them, assembled in the " said common hall, shall be good and effectual " to all intents and purposes, as if the same " had been made by all the citizens of this city, " in their own persons; and that no person or " persons, save only the electors, hereby ap- " pointed, shall be at any time hereafter ad- " mitted into, or have any vote in any the elec- " tions aforesaid.

" And be it further enacted and ordained, " that all former acts, orders, and determina- " tions, heretofore made by the court of com- " mon council, or by the citizens of this city, " in any court or meeting, for or touching the " elections of any of the officers aforesaid, " shall be and are hereby repealed and made " null and void to all intents and purposes."

It does not appear by history, whether this act of common council was afterwards acted upon, or not; it was, however, an attempt to favor the original rights of the body of freemen.

At this period, and for many years afterwards,

the minds of the citizens must have been occupied with other matters, for the kingdom was in a most disturbed and distressed state, from its being harassed by the commotions which took place during the common wealth; and very soon after, viz. in the year 1665, there broke out in London one of the most terrible plagues that ever infested this kingdom, which swept away, 68,596 persons; and, in the following year, that most destructive fire which consumed the greater part of the city, and brought the greatest distress on a very large proportion of the inhabitants. It destroyed 89 churches, the city gates, guildhall, many public structures, hospitals, schools, libraries, a vast number of stately edifices, 13,000 dwelling houses, and 400 streets. The ruins of the city were 436 acres, from the Tower, by the Thames side, to the Temple church, and from the north east along the wall, to Holborn bridge; however, it was soon re-built, for in three years time that was finished, which was supposed to be the business of an age.

About the year 1679, the lord mayor, aldermen, and common council, presented a petition to his majesty, against the prorogation of the parliament; the language of which, gave such offence, as to cause the quo warranto to be

issued against them, for dissolving the corporation; and in the year 1682, party spirit ran very high, and various disorderly proceedings ensued, but, divers citizens being resolved to choose such sheriffs as would not be under the improper influence of the court, to serve the interest of the faction then existing, at midsummer day, 1682, a great contest arose in the election of the sheriffs. The then lord mayor, who was on the court side, insisted on his right of nominating one sheriff, by drinking to him, a ceremony by which it ought only to have been understood that the person so drank to was to be put in nomination, subject to the election at the common hall. But depending on the lord mayor's right, the person drank to attended the court of aldermen, some time before the day of election, and entered into bond to serve the office; and the lord mayor issued his precept for confirming his appointment, and electing the other sheriff, which occasioned much confusion among the companies, some summoning their members to meet and choose sheriffs, &c. as formerly; some for confirmation and election, and some for choosing city officers generally.

On the day previous to the election, the opinion of the recorder being taken in the

court of aldermen, on the right of election, he declared that it was vested in the commonalty, and that the sheriffs were judges of the poll if there was one, in which opinion the court unanimously concurred; but on midsummer day, the common crier, by direction of the mayor, proclaiming, " you gentlemen of the " livery, attend your confirmation," the hall resounded with " no confirmation." After a long and violent dispute, the mayor and aldermen retired, and after some further interruption, and the contest about confirmation being relinquished, there were put in nomination four persons (including the one who had been before drank to) and upon the view of hands the election was declared to have fallen upon Mr. Papillion, and Mr. Dubois, (the two popular candidates) by a large majority. However, a poll was demanded, and granted for all the four candidates, and the voters left at liberty to poll for which of the four they pleased. In the course of the proceedings, various disturbances were made, and several that were for the other candidates, applied to the lord mayor, suggesting as if they were denied to poll, and made other complaints, which occasioned his lordship's coming to the hall, some people following very rudely, with huzzas, and unusual clamour.

His lordship came to the polling place, and seemed to forbid the further proceeding in the poll, but the sheriffs offered several reasons why they ought to go on, as being in the legal discharge of their duty, and in consequence proceeded.

About seven in the evening, the mayor and some few aldermen came to the hustings, the sheriffs being still polling in the yard, when the common crier, by direction from his lordship, spoke to the promiscuous company in the hall, to this effect, "all you that were summoned to appear here this day, are required "to depart, and to give your attendance on "Tuesday at nine o'clock in the morning." The generality of the people called out "a "poll;" however, his lordship being gone, the sheriffs continued the poll as before, intending for the ease of their fellow citizens, to have dispatched it that night, but not being able so to do, one of the sheriffs said, "my lord "mayor hath taken upon him to adjourn this "court, but we do now tell you, that we do "adjourn this court, until Tuesday morning, "nine o'clock, then to declare the poll, or to "poll any such as have right to poll, and have "not polled already."

However, the mayor having complained to

the king and council, of his being insulted, and ill used, the lord mayor, aldermen, and sheriffs, were ordered to attend the privy council, on the Monday, who committed Mr. Pilkington and Mr. Shute, the sheriffs, and Alderman Cornish, prisoners, to the Tower of London, by warrant, signed by 24 privy counsellors; and gave orders to the attorney general to prosecute all that should be found to have promoted or encouraged the riot at Guildhall, as the late election, was stated to be. The prisoners, however, were committed to bail, by the habeas corpus act, at the king's bench bar, on the Friday following. They called a common hall on the 1st of July, and proceeded on the election, and declared Papillion and Dubois duly elected. But the lord mayor, with his party, met at Guildhall, on the 14th when he produced an order of council to begin all the proceedings anew, which was opposed by many eminent citizens, as an innovation of their rights and privileges; the mayor, however, declared his friend, Mr. North, duly elected by him, without the sanction of the common hall, and proceeded to poll for the other; but as none of those who had voted for Papillion and Dubois, at the former election, would vote at this, to give it a sanction, Mr. Box, another

candidate, put up by the court, was elected without opposition; but he finding his election was not regular, declined serving the office, on which Mr. Peter Birch was chosen, and with Mr. North was sworn in, before the lord mayor, while Papillion and Dubois were left to seek their remedy at law.

The proceedings at the former common hall were followed by an information brought in the name of Sir Robert Sawyer, the attorney general, against Thomas Pilkington, Esq. Samuel Shute, Esq. sheriffs; Henry Cornish, alderman; Ford, lord Grey, of Werk; Sir Thomas Player, knight, chamberlain of London; Slingsby Bethel, esq. Francis Jenks; John Deagle; Richard Freeman; Richard Goodenough; Robert Key; John Wickham; Samuel Swinock; John Jekyll, senior, &c. (8th of May, 35 Car. 2nd. A. D. 1683) in which it was stated, that upon the 24th day of June, then last, there was a common hall summoned by Sir John Moore, knight, then lord mayor, and thereupon, held for the election of sheriffs for the year ensuing, the feast of St. Michael; and that on the same 24th day of June, the said Sir John Moore adjourned the court till the Tuesday following, by proclamation. That after the said adjournment, the lord mayor caused

proclamation to be made for all persons to depart, and that the defendants intending to disturb the peace of the king, after the adjournment aforesaid, did unlawfully, with many other persons unknown, continue together, and did riotously assault the lord mayor. And after the said adjournment, by proclamation, two of the defendants, Pilkington and Shute, by colour of their office as sheriffs of this city, and the rest of the defendants did continue the poll, and unlawfully affirm to the people, that Sir John Moore, the lord mayor, had no power to adjourn them; and that they continued the great tumult two hours, to the terror of the king's subjects, and the evil example of others, and against the peace of our sovereign, lord the king, &c.

The cause came on to be heard on the 8th of May, 1683, before Sir Edmund Saunders, the lord chief justice of the court of king's bench; several witnesses were examined, as to the custom of calling, adjourning, and dissolving, common halls, as well as to the particular circumstances of this case; and the general nature of the evidence, seemed to be, that it was by the authority of the lord mayor, that the common halls were called, adjourned, and dissolved, and that the sheriffs only managed the intermediate proceedings.

It was argued by the council for the defendants, that the single question was, "whether "the sheriffs were guilty of a riot in continuing "the poll," and that it was not proved that the lord mayor, before that time, did ever attempt to adjourn a common hall, to any certain time. To which the lord chief justice answered; "what need if there had been no president; if "a man may call and dissolve an assembly, do "you think, by the law itself, he may not ad- "journ it to a convenient hour. Do not "judges of assize in all the counties of England, "do it?"

Mr. Thomson, who was also of council for the defendants, said, "if my lord mayor hath "power to call a common hall, he hath not to "adjourn it before the business is done."

Lord Chief Justice. "It is plain he may do it. You know it was agreed on all sides, that Sir Samuel Starling, the lord mayor, had well dissolved the assembly, that is in point of law, and they could not say the assembly was in being; yet afterwards, there was an action brought against him, and they laid it, "that "he maliciously, and to the intent that he who "was chosen bridgemaster, and duly elected, "should be set aside, dissolved the assembly, "and denied to grant a poll, which they ought

" to have had, yet for all that the assembly " was well dissolved."

The attorney general, (Sir Robert Sawyer) argued, " that the continuing persons together, " after adjournment and proclamation, and or- " dering the people to stay and go on with the " poll, was an unlawful act, and a subversion " of the ancient government of this city ; and " that if the magistrate makes proclamation for " them to depart, and they stay after it, and a " disorder is committed, it is a riot ; and if " there be no disorder, it is a rout, and an un- " lawful assembly if they continue together."

These allegations do not appear to be contradicted by the chief justice, who stated in his address to the jury, " that the defendants say " it was only a mistake in the law, and there- " fore it ought not to be deemed a riot. I must " tell you, a man cannot excuse himself of a " crime, by saying, he was ignorant of the law; " if that be an excuse, it is impossible to con- " vict any man. If the defendants were really " ignorant, that may be considered, in another " place, the fine may be less ; but as for these " gentlemen, they could not be ignorant of it, " because the daily practice before their eyes " was for the mayor to do it."

The jury found all the defendants guilty,

and they were afterwards fined; but after the revolution, the judgment was reversed by writ of error in parliament.

The citizens, however, so far profited by these proceedings, that they passed an act of common council, on the 21st day of June, in the 7th year of king William III. (A. D. 1695) in the mayoralty of Sir Thomas Lane; "for "settling the methods of calling, adjourning, "and dissolving, the common halls, upon the "several elections of the city officers therein "mentioned," which act taking notice in the preamble of the disputes, concerning such rights and powers, to call and adjourn, &c. declares, "that for the preventing the like "mischiefs for the future, the right of assem- "bling common halls, for the election of lord "mayors, sheriffs, and other public officers for "the city, (out of which their members of "parliament are to be excepted) and the power "to dissolve the same, after such elections are "made and finished, and not otherwise, is and "ought to be in the lord mayor of the city, for "the time being," and which course has been pursued ever since.

It seems also that the citizens were not settled with respect to their right of election, for Dr. William King, in his essay on civil government,

addressed to Sir William Withers, who was lord mayor, in the year 1708, took the matter up, and observed; "that it was one of the city "liberties before the great charter, that the "freemen should choose their own officers, "and that he thought it was not in the com- "mon council's power to make an act to debar "all but the liverymen of the several compa- "nies to come to the election of the mayor "and sheriffs, for that they could not take "away the rights of the citizens, declared by "their charter, and confirmed by the great "charter;" and it may be concluded, that at the subsequent elections, disturbances frequently arose, up to the year 1724; when many citizens petitioned the house of commons, setting forth several grievances they laboured under, and praying, "that for promoting the "welfare---for preserving the liberties, the peace "and tranquillity of the city, and for settling "elections therein, on a just and lasting foun- "dation, the house would take the premises "into consideration, and give the petitioners "such relief as they should think fit;" and a bill was ordered to be brought in, which afterwards passed, as the statute of the 11th of George I. ch. 18, before referred to, and by which the elections are regulated, though no

alteration was made thereby, in the description of persons, who were eligible, that being left according to the customs and usages of the city; the statute directing generally the mode of proceedings at the elections by the livery, and the title to which is, "an act for regulating elections "within the city of London, and for preserving "the peace, good order, and government of the "said city;" and the preamble thereto details the grievances complained of; but the same being in general use and circulation, it is not deemed necessary to be further stated.

This bill, however, created a great ferment in the city, and was strongly opposed in the house of commons, by three of the city representatives, who received the thanks of the court of common council, for their strenuous endeavours to prevent it from passing into a law.

As soon as the citizens in general knew the contents of it, and that it was sent to the house of Lords, for their determination, a great number of them petitioned the house against it, as being injurious to their rights and privileges; and, after the bill was read a second time, it was proposed in the Lords to ask the opinion of the judges, "whether this bill affects any of the prescriptions, privileges, customs, and liberties, of the said city of London, restored to them,

or preserved by the act passed in the 2d. year of King William and Queen Mary, for reversing the judgment in the quo warranto against the city of London, and for restoring the said city to its ancient rights and privileges."

Various debates arising thereon, the question was put: "whether the judges shall deliver their opinions upon the said proposed question?" which was at length determined in the negative; in consequence whereof the bill passed into a law, after a protest by more than twenty peers on some of the clauses. It is, however, proper to observe, that the provisions in that act, so far as regards the livery, are confined to elections only; and the ultimate modes of proceeding are by a poll and a scrutiny. Also, that no persons are entitled to vote as liverymen, "who "have not been upon the livery by the space "of twelve calendar months before such election, "and who shall not have paid their respective "livery fines; or who, having paid the same, "shall have received such fines back again, in "part or in all, or shall have had any allowance "in respect thereof; or, who shall at any time, "within the space of two years next before "such election, or elections, requested to be, "and accordingly have been, discharged from "paying to the rates and taxes to which the

"citizens of London, inhabiting therein, are or "shall be liable as aforesaid, or any of them; "or have, within the time aforesaid, had or "received any alms whatever."

It is, however, now too much the case, as is stated in the preamble to that act, that many persons having no right of voting, unlawfully intrude themselves into the assemblies of the citizens, in manifest violation of the rights and privileges of the citizens and of the freedom of their elections, and to the disturbance of the public peace; and for which some more adequate remedy, than at present appears to exist, should be provided; as no one ought, upon fair principle, to present himself at the meetings of the livery, unless he is fully qualified according to the provisions of the act of parliament above mentioned.

CHAP. XIII.

A SUMMARY STATEMENT OF THE PROCEEDINGS RELATING TO THE CASE OF MR. ALDERMAN PLUMBE, WARDEN OF THE GOLDSMITH'S COMPANY, FOR REFUSING TO OBEY THE LORD MAYOR'S PRECEPT, FOR SUMMONING THE LIVERY OF THE COMPANIES, TO ATTEND A COMMON HALL, TO CONSIDER OF AN APPLICATION FOR REDRESS OF GRIEVANCES; ALSO, OF THE ARGUMENTS OF THE LEARNED JUDGES; WITH INCIDENTAL REMARKS AND OBSERVATIONS THEREON.

In the year 1769, in the mayoralty of Mr. Alderman Turner, an application was made to his lordship by a great number of the livery, desiring him to call a common hall, "for the purpose of taking the sense of the livery of London, on the measures proper to be pursued by them in the then present alarming situation of public affairs," which his lordship refused, till he had taken the opinion of the court of common council; and in consequence a court of common council being called, on a motion being made and the question put, "that the lord mayor be desired to issue a precept to assemble the livery in common hall, pursuant to their application to his lordship, the same was declared to be carried in the negative, and a division being

demanded and granted, that was also carried in the negative. But, on midsummer day, in the same year, after the usual business of the day was over, the livery came to the resolution, "that a petition to his majesty (then produced and agreed to) complaining of and praying a redress of grievances, should be presented by the then lord mayor, (Mr. Alderman Turner) together with Sir Robert Ladbroke, knt. Mr. Alderman Beckford, and Mr. Alderman Trecothick, three of the city's representatives in parliament; which was a few days afterwards presented to and received by his majesty, but to which no answer was given.

On the 1st. day of March, 1770, in the mayoralty of Mr. Alderman Beckford, a memorial of several persons, whose names were thereunto subscribed, and who had, as was therein alledged, on the 28th of September preceding, been appointed a committee of the livery, was presented to the court of common council holden on that day, which was read, praying that court to join with them in a request to the right hon. the lord mayor speedily to assemble the liverymen of the several companies of the city of London, in a common hall, that they might have an opportunity to take such further measures therein, for the re-establishment and

security of their ancient rights and franchises, as the then times required :" which was signed by six liverymen, (all of whom are long since dead) ; and on a motion being made and question put, " that the court doth agree with the " application of the memorialists," and another motion being made and question put, " that " the consideration of the said memorial be ad- " journed to the next common council," the same was resolved in the negative. Then the question was put, " that this court doth agree " with the application of the memorialists ;" the same was resolved in the affirmative, by the majority present.

In consequence of this resolution, the then lord mayor, (Mr. Alderman Beckford) caused a precept to be sent to the masters and wardens of the several livery companies, stating, " that the " common council having joined with a com- " mittee of the livery, in an application to the " right hon. the lord mayor, for a common hall, " to consider a further application for redress of " grievances, they were required to cause the " livery of their company to meet at Guildhall " to take that matter into consideration."

The common hall being assembled, it was resolved, that the address, remonstance, and petition, then agreed to, after being transcribed

and signed by the town clerk, should be presented to his majesty, by the lord mayor, the city's representatives in parliament, the court of aldermen and common council, attended by the recorder and city officers.

The same was presented as agreed to, and his majesty being on the throne, gave the following answer; which, for its peculiar benignity and excellency, is worthy of being written in the most indelible characters.

"I shall always be ready to receive the re-
"quests, and to listen to the complaints of my
"subjects; but it gives me great concern to
"find that any of them should have been so far
"misled as to offer me an address and remon-
"strance, the contents of which I cannot but
"consider as disrespectful to me, injurious to
"my parliament, and irreconcilable to the
"principles of the constitution.

"I have ever made the law of the land the
"rule of my conduct, esteeming it my chief
"glory to reign over a free people; with this
"view, I have always been careful, as well to
"execute faithfully the trust reposed in me,
"as to avoid even the appearance of invading
"any of those powers, which the constitution
"has placed in other hands. It is only by per-
"severing in such a conduct, that I can either

" discharge my own duty, or secure to my " subjects the free enjoyment of those rights " which my family were called to defend; and " while I act upon those principles, I shall have " a right to expect, and I am confident I shall " continue to receive, the steady and affection- " ate support of my people."

The address, petition, and remonstrance, which was read at the common hall, was entitled " the humble petition," &c. " of the lord mayor, aldermen, and livery;" but at a court of aldermen, which was afterwards held, 16 of the aldermen signed a protest, declaring that they were not assenting to, nor had signified their approbation of the said address, remonstrance, and petition.

This example of the majority of the court of aldermen, was followed by three of the city companies, who disputed the power of the lord mayor, in calling common halls, on any other occasions than merely for the election of city officers; and at a court of assistants of the Goldsmith's company, the following resolution was agreed to:

" The right hon. the lord mayor, having " issued precepts for summoning the livery of " the city to meet at Guildhall, on Tuesday, " the 6th instant, to consider of a further appli-

" cation for a redress of grievances; at which " meeting, a most indecent remonstrance was " ordered to be presented to his majesty,

" Resolved and ordered, That for the future, " the wardens of this company, do not summon " the livery thereof to attend at any meeting in " the Guildhall (except for the purpose of " elections,) without the authority of this " court."

The companies of Grocers and Weavers followed the example of the Goldsmith's; and at their next court days, passed resolutions of a like tendency.

On the 12th of April, a common hall was held at Guildhall, by virtue of a precept from the lord mayor, to receive the report of his majesty's answer to the address, remonstrance, and petition; as also to take into consideration the late proceedings of the companies of Goldsmiths, Weavers, and Grocers; and in particular their resolutions not to obey the orders of the lord mayor, for summoning the livery of the respective companies to attend the common hall; and the last committee of the livery were appointed to consider what would be the proper mode of proceeding against these companies, (which were then denominated refractory), and to report their opinion to the court of common council.

A case was accordingly stated for the opinions of certain learned council on the subject, which are afterwards noticed, and led eventually to the proceedings for the disfranchisement of Mr. Alderman Plumbe, in the mayor's court; and the opinion given by them was as follows: "We apprehend that the head officer of every "corporation, may convene the body or any "class of it, whenever he thinks proper. We "are of opinion, therefore, that the lord mayor "for the time being, may of his own authority "legally call a common hall, and we see no "legal objection to his calling the two last."

"We conceive it to be the duty of the proper "officers of the several companies, to whom "precepts for the purpose of summoning their "respective liveries, have been usually directed, "to execute those precepts, and that a wilful "refusal on their part is an offence punishable "by disfranchisement. If it be thought proper "to prosecute; with that view, in the present "case, we think it most adviseable to proceed "in the usual way, by information, to be filed "by the common sergeant, in the mayor's "court, which the common sergeant may file "ex officio if he pleases; or at the instance of "either of the bodies mentioned in the queries;" which was ordered accordingly, and the several

informations were prepared and filed, but that against Mr. Alderman Plumbe only was tried, the others waiting the event and issue of that.

The power of the lord mayor to issue precepts for the purposes therein mentioned, was denied upon the record, and the cause was tried by a special jury, before Mr. Recorder Glyn, (who was one of the council that had signed the opinion) and a verdict of guilty given. A motion in arrest of judgment was made, on which the judgment was affirmed, but a writ of error being brought, it was argued several times before the five judges assigned for that purpose, (which is a peculiar tribunal in the nature of a court of error in all matters decided in the mayor's court) and the judgment of the mayor's court was reversed, upon the grounds stated in the several arguments delivered by four of the judges, (the fifth, Mr. Baron Perrott, having then lately resigned.)

Mr. Justice Ashhurst observed, "the remonstrance, address, and petition, did not "contain any matter that concerned the city of "London in its corporate capacity; that it "certainly was the declared inherent right of "the subject to petition the king, but it was "their business to see the matter of such petition was proper, and respectful; but though

" the subject has this right, it is a matter of " discretion and choice, and not obligation, and " no man has a right to tell another he ought " to concur in a petition, or not; it has nothing " to do with the corporate duties of this or any " other city; a corporation as such may do it " if they please, but it is not a matter of cor- " porate obligation; the refusing to execute " that precept which merely concerned that " purpose which was not a corporate one, could " not be a corporate offence, and therefore in " his opinion, could not be a ground for con- " viction. And further, that if the address was " ever so proper, but had nothing to do with " the corporate relation of the livery, he then " was not in duty bound to obey the precept."

Mr. Justice Aston was of the same opinion.

The lord chief baron Smythe said, " if the " mayor had a power at all of summoning the " livery, for any purpose but that of choosing " magistrates, it must be for some corporate " purpose; receiving the report of the king's " answer to the remonstrance and petition, could " be no corporate purpose, for the livery could " not either address, remonstrate, or petition as " a corporate body, for as he found by all the " instances, those who meet for corporate pur- " poses, are the mayor, commonalty, and citi-

" zens of the city of London, and in their cor-
" porate name no mention at all is made of the
" livery, and therefore the address of the livery
" can be only like the address of any other in-
" dividuals as part of the body."

Lord chief justice De Grey observes, " thus
" far we know that the constitution of the city
" of London does not contain these companies,
" I mean originally, and from their charters, and
" prescriptive rights; it is by subsequent acci-
" dent that they came now to bear the relation
" they do to their companies as livery. The
" livery are not formed out of their corporate
" body, for whatever their constituent parts,
" their obligations, duties, powers, customs, and
" rights are, either as altogether, or as indi-
" viduals, they are no part of the city customs
" or rights, but a subordinate detached and in-
" dependent body; I mean independent with
" regard to the original constitution.

" Now there is nothing in law more defined
" or better understood than the rules by which
" the powers of corporate bodies are to be ex-
" ercised, and they have no power but under
" their charter, or by prescription, or in some
" few instances, by act of parliament, or the
" general rules of law applied to them. They
" cannot go beyond their authority, and its in-

" cidental consequences, that is most clear; and " the governing power whatever it is, can no " more impose demands beyond the constitu- " tional authority, than the governed can dis- " obey any within it. As the whole body must " keep within the limits of its authority, so " must every derivative part of it; so must the " officer confine himself to his duty in the ex- " ercise of the power given him, and the dif- " ferent parts of the constitution, each having " their peculiar department, all must be subser- " vient to the good of the whole; now the " head can no more compel any particular part " of the corporation to meet, but for the pur- " pose of doing such business, which by the " constitution belongs to such part than any " other man. If such law is issued contrary to " the constitution of the city, as such, it is " void, that is, it can derive no authority from " the constitution of the city, or corporation, " any more than it would from the authority of " a private man. It has been truly said, every " body has a right by our constitution to pe- " tition the sovereign. The lord mayor and " aldermen have a right as individuals to pe- " tition the sovereign; nay, they may have a " right, since they have now as a body certain " rights given them, particularly by the late act

" of parliament giving the power of elections,
" they have given to them by a legislative act,
" a certain right. (I do not know how to call it,
" a corporate right, but a certain right belong-
" ing to that meeting) the right of elections;
" and, therefore, I think a body might possibly
" suppose a case in which the lord mayor,
" aldermen, and livery, as such might have some
" business upon which they might think proper
" to address the crown. And if they did so, if
" such precept was issued to the warden, it
" would be his duty to obey it; there it would
" appear to be, I cannot say a corporate pur-
" pose, but a legal business to be transacted
" legally, and if a warden was to disobey such
" an order as that, he would offend as warden;
" there is no doubt about that, but the question
" is, what is to be done, where it appears the
" subject of their meeting is not the particular
" business of that body, nor even the particular
" business of the city, but relates to supposed
" national grievances, which is the concern of
" the citizens, as subjects and liverymen, as it
" concerns every body, to present a petition to
" the sovereign, but it has nothing to do with
" the corporate capacity of the city, and nothing
" to do with the collective character of the
" livery, but it might be a matter equally re-

" lative to the subject at large; consequently it " is as clear as the sun, they could not meet " upon this subject corporaliter.

The determination of the learned judges therefore completely negatived the opinion given by the recorder and the other learned council, which in effect stated, " that it was the duty of " Mr. Alderman Plumbe to have executed the " precept, and that by a wilful refusal on his " part, it was an offence punishable by disfran- " chisement," their lordships determining, " that Mr. Alderman Plumbe had not been " guilty of any offence, either in the character " of warden of the company, or a freeman of " London; as well as that the livery could not " either address, remonstrate, or petition as a " corporate body." And the inference that may be further fairly drawn from their determination is, that as the livery were not bound to attend the common hall for the purpose, so the lord mayor was not legally bound or required to call them together for such purpose; and therefore that it was an improper interference with the general rights of the citizens, and their immemorial legislative body, the court of common council.

The present Sir James Mansfield, who was at that time council for Mr. Alderman Plumbe,

stated in the course of his argument, what appears to the writer to be very worthy of being recorded; his observations were as follow: "If the livery of London was the representative body of the city to be called together for the general purposes of the city, this very happy effect would follow; the city of London would be blessed with two distinct representative bodies, who might act against one another to produce disorder, which must be the effect of two such representative bodies subsisting in the same district; for the immemorial legislative body of the city of London is the common council, and if the idea of calling together the livery for general purposes is to prevail, the livery might come and debate one thing, the immemorial legislative body, the common council, might resolve another, and there would be two representative bodies acting one against another, which of themselves they would soon be tired of, and never insist upon again.

"Upon the present occasion, it is sufficient for me, they have not pretended a ground, either by charter, custom, or bye-law, which can warrant the calling together this particular separate body of the city of London. The act of parliament of the 11th of George I. regulated the manner of elections, and in more ancient times

it was regulated by the custom of the city, then they met only for electing magistrates of the city, lord mayor, sheriffs, chamberlain, and I believe, bridge masters, and some other officers; their great business is electing the magistrates of the city, and for that purpose they assemble and meet; for if it was for any thing else, it would be a very pretty assembly indeed: an assembly of eight or ten thousand persons. With regard to those elections, there is a particular method of taking the poll, to know upon which side the majority is; there was no such thing heard of as taking the sense at a general meeting, it would be impossible such meeting should be called for general purposes, for the business would end in confusion, and could end in nothing else."

How far Sir James Mansfield was correct in his ideas, subsequent proceedings may be adduced as evidence; and by which it will also appear, that it has become very fashionable, to say the least, in the present times, to contend for rights and privileges when it suits party purposes, and to pass them by, or to attempt to fritter them away, when it is found convenient for the like purposes: which ought not so to be; and very intelligent persons in many respects have, in modern times, not unfrequent-

ly made use of this expedient. But personalities are what the writer always wishes to avoid, and the right of thinking for himself, and letting others think for themselves, is a doctrine to which he fully assents; and, therefore, he admits that a difference in opinion on public matters ought not (as is however too much the case from the prejudice of party on the one side or the other) to be productive of personal disrespect; but he, at the same time, thinks it proper to contend, and that most earnestly, that the boundary marks of constitutional and legal rights, which are intended for the good of the whole and of every part, ought not to be silently permitted to be encroached upon, to serve the private views of any party or set of men whatever, because it at least opens a door, through which further attempts may hereafter be made, to undermine and prostrate the barriers which the wisdom and experience of past ages have established, for the public peace and welfare, and thereby to introduce anarchy; the effects of which are too well known to need any detailed description. The writer, however, at the same time, admits that wherever it is expedient for the good of the whole, that alterations to a greater or less degree in any particular system should take place, that then upon

proper deliberation and fair discussion, the same should be made, but that it ought to be done by lawful and competent authority, and not by the irregular acts arising from prejudice or party; which leads to the further consideration of the general right of petitioning; which, in the present times, appears to be a subject of the highest importance; inasmuch as the legal and constitutional exercise of it is calculated to produce the most beneficial effects, as was the case on the conscientious petition of the right Rev. the seven bishops, in the unhappy reign of James II. and the contrary exercise of the right, whether proceeding from unguarded zeal or otherwise, is capable of exhibiting the most direful and destructive consequences, as was the case on the riots, in the year 1780, which are still in the remembrance of numerous persons now living.

CHAP. XIV.

ON THE RIGHT OF PETITIONING ACCORDING TO THE LAWS AND CONSTITUTION OF ENGLAND, WITH A STATEMENT OF THE STATUTE OF THE 13th CAR. II. SANCTIONING THE AUTHORITY OF THE COURT OF COMMON COUNCIL, ALSO AN ACCOUNT OF PROCEEDINGS ON THE CLAIMS OF THE LIVERY, TO HAVE THEIR PETITIONS RECEIVED ON THE THRONE; WITH OBSERVATIONS AND CONCLUSION.

It is stated by a sensible writer, (Mr. Cross) in his "view of the practical benefits and advantages of the laws and constitution of England," that another very important advantage, and of great consequence to the people, is the right of petitioning the house of commons for the redress of any civil grievances which the ordinary jurisdictions of the courts of law and equity may not be competent to reach; for the latter have only authority to administer and dispense the laws of the country, but the repeal or abrogation of any obnoxious law, belongs not to their province, but to the department of the high court of parliament, in its aggregate body, or individually (as to the reception and partial cognizance of public complaints) to the representative estate, the house of commons. To this important tribunal, the people

may appeal by petition, praying for its interference, to rescind all oppressive or obnoxious statutes, or to redress private injuries, accompanied by any peculiar circumstances, and by the interposition of this branch of the legislature, all their grievances may be heard and redressed.

As all human ordinances are and must be liable to imperfection, (inasmuch as human nature in its highest attainments is infected with an incurable disease called corruption), there will unavoidably arise in the comprehensive catalogue of civil grievances in the large societies of man, certain grounds of public complaints or private dissatisfaction, attended by such peculiar circumstances that cannot be effectively reached by the ordinary channels of distributive justice, and therefore unless the constitution had afforded extraordinary resources of relief, the injured individual, or particular classes of society might be unredressed; to prevent which, the civil polity of England has awarded to her subjects an additional and auxiliary right in such cases, which is the right of petitioning the king or either house of parliament, for the redress of any grievance or oppression; but it must be an evident conclusion, that in the exercise of a privilege of this high nature, unless great care was taken by the legis-

lature to prevent it, the measure itself would in all probability be more or less, always attended with tumult and inevitable confusion, in the case of all popular appeals of this nature; not more disrespectful to the proper dignity of majesty, and derogatory from the essential importance and consequence of parliament, than it would also be found inconvenient and inefficacious for the purposes of the people themselves. Numbers and tumult are not only the natural and unavoidable concomitants on, but, in fact, the prolific sources of any violent or universal assertion of rights or appeals, for the redress of wrongs, and are incontestibly much better calculated for and adapted to the clamours and impetuosity of a rude and uncultivated state of society, than for the province either of the legislature or any other well regulated body, where their proceedings are carried on with system and deliberative contemplation; instead of by an inflammatory appeal to the passions and prejudices of mankind; by which, reason yields itself to the impulses of ardour and enthusiasm.

Mr. Hume observes, the abuses of petitioning in the reign of Charles I. had been attended with the worst consequences; and to prevent such irregular practices for the future, the fol-

lowing act of parliament passed, which as it has been before referred to, and is the act of parliament which expressly sanctions the right of the lord mayor, aldermen, and commons, in common council assembled, the writer deems it proper to introduce at length.

It may, however, be right, previous to its introduction, to observe, that Sir William Blackstone, treating of the restoration of Charles II. says: "that though the monarch, in whose person the royal government was restored, and with it our ancient constitution, deserves no commendation from posterity; the concurrence of happy circumstances was such, that from thence we may date not only the re-establishment of our church and monarchy, but also the complete restitution of English liberty, for the first time since its total abolition at the conquest; for therein, not only the slavish tenures, the badges of foreign dominion, with all their oppressive appendages, were removed from incumbering the estates of the subject, but also an additional security of his person from imprisonment, was obtained by that great bulwark of our constitution, the habeas corpus act, and that those two statutes, with regard to our property and persons, formed a second magna charta, as beneficial and effectual as that of

running mead. And after enumerating various other particulars, he adds: "and on the "whole, when we likewise consider the free-"dom from taxes and armies, which the subject "then enjoyed, it will be sufficient to demon-"strate this truth, that the constitution of "England had arrived to its full vigor, and the "true balance between liberty and prerogative, "was happily established by the law, in the "reign of king Charles II."

The following is the act above referred to, which seems to be well calculated to prevent tumult and disorders on the one hand, and to sanction the beneficial and constitutional right of petitioning on the other.

Stat. 13, Car. 2, C. 5, (A. D. 1661) entitled, "An act against tumults and disorders, upon "pretence of preparing or presenting public pe-"titions, or other addresses to his majesty or "the parliament."

"Whereas, it hath been found by sad expe-"rience, that tumultuous and other disorderly "persons, soliciting and procuring of hands by "private persons, to petitions, complaints, re-"monstrances, and declarations, and other ad-"dresses to the king, or to both or either houses "of parliament, for alteration of matters es-"tablished by law; redress of pretended griev-

" ances in church or state, or other public con-
" cernments, have been made use of, to serve the
" ends of factious and seditious persons gotten
" into power, to the violation of the public
" peace; and have been a great means of the
" late unhappy wars, confusions, and calami-
" ties, in this nation. For preventing the like
" mischiefs, for the future,

" Sect. 2. Be it enacted by the king's most
" excellent majesty, by and with the consent
" of the lords and commons assembled in par-
" liament, and by the authority of the same,
" That no person, or persons, whatsoever, shall
" from and after the first of August, 1661,
" solicit, labour or procure the getting of hands,
" or other consent, of any persons above the
" number of twenty or more, to any petition,
" complaint, remonstrance, declaration, or other
" address, to the king, or both or either of the
" houses of parliament, for alteration of matters
" established by law, in church or state, unless
" the matter thereof have been first consented
" unto and ordered by three or more justices
" of the county, or by the major part of the
" grand jury, of the county, or division of the
" county, where the same matter shall arise
" at their public assizes, or general quarter
" sessions; or, if ARISING IN LONDON, BY

" THE LORD MAYOR, ALDERMEN, AND COM-
" MONS, IN COMMON COUNCIL ASSEMBLED:
" and that no person, or persons, whatsoever,
" shall repair to his majesty, or both or either
" of the houses of parliament, upon pretence
" of presenting or delivering any petition, com-
" plaint, remonstrance, or declaration, or other
" addresses, accompanied with excessive num-
" ber of people; nor at any one time with above
" the number of ten persons, upon pain of in-
" curring a penalty not exceeding the sum of
" one hundred pounds in money, and three
" months imprisonment, without bail or main-
" prize, for every offence; which offence to be
" prosecuted at the court of king's bench, or
" at the assizes, or general quarter sessions,
" within six months after the offence com-
" mitted, and proved by two or more credible
" witnesses.

" Sect. 3. Provided always, that this act, or
" any thing therein contained, shall not be con-
" strued to extend to debar or hinder any per-
" son, or persons, not exceeding the number of
" ten aforesaid, to present any public or private
" grievance or complaint, to any member or
" members of parliament after his election, and
" during the continuance of the parliament; or to
" the king's majesty, for any remedy to be there-

" upon had, nor to extend to any address what-
" soever, to his majesty, by all or any of the
" members of both or either houses of parli-
" ament, during the sitting of parliament: but
" that they may enjoy their freedom of access
" to his majesty, as heretofore hath been used."

The author before referred to, says such was the indulgent concession of the government of this country, in the days of king Charles II. which was again expressly confirmed at the revolution, when it was declared by the bill of rights, that under the above mentioned regulations, the subject hath a right to petition, and further, that all commitments and prosecutions for such petitions are illegal.

In the case of the king, against lord George Gordon, in the year 1781, (Douglas's Reports, fol. 592.) It was contended by the council for the prisoner, that the above statute of the 13th Car. II. was virtually repealed by that article in the bill of rights, which declares; " that it is " the right of the subjects to petition the king, " and that all commitments and prosecutions " for such petitioning are illegal." But lord Mansfield, in his directions to the jury, said, he had never before heard it supposed, that the act of Car. II. was repealed, and that it was the joint and clear opinion of the whole court,

that the bill of rights did not mean to meddle with it at all; that neither that, nor any other act of parliament had repealed it, and that it was in full force.

It is further to be observed, that it is highly necessary, and within the direct view of the constitution, in admitting of the exercise of this privilege on behalf of the people, that the subject matter of their grievances be not the result of turbulent dissatisfaction and querulous discontent, propagated by the seeds of faction, and nurtured by the spirit of dangerous innovation, but the calm remonstrances of the public voice, which if properly ushered before the notice and consideration of the throne or the houses of parliament will assuredly excite that respect and attention which is justly due to the importance of such an appeal; and thus the public as long as they choose to conduct with legal propriety, the cause of their genuine freedom, and the preservation of their civil and political rights and liberties, can always have an opportunity of seeking, and consistently obtaining due and constitutional redress.

The privilege of the citizens of London, however, in their corporate capacity, as before mentioned, is expressly provided for by the statute of Charles II. to be exercised on their

behalf, by the court of common council, which as before noticed, is the full and complete representative body and voice of the citizens collectively; and consists not only of men of different public opinions, and whose local interests are essentially connected with the peace and welfare of the city, but who are also elected by persons of the like different opinions in the respective wards of the city, in the exercise of their annual franchise, and in which every householder may participate, if he thinks proper to acquire his freedom and it must, in candour, be acknowledged, that their privileges are not only consonant with the most enlarged popular rights, but as extensive as can be enjoyed by any persons forming a part of a free and enlightened country, acting under the sanction of wise and wholesome laws; and what is still more important, is, that this privilege has uniformly been exercised by the court of common council, by a presentation of their address or petition to the throne, and the reception of an answer at the time of such presentation.

It has, however, happened that the leading men amongst the livery, many of whom are also members of the court of common council, have at different periods persevered in the requisition of common halls, for general purposes, which

some of the chief magistrates have been induced from different motives to consent to, and they have therefrom insisted upon it as a right which they alledge to be immemorial, though it has been uniformly refused by his present majesty, since its first introduction, to have their addresses and petitions received on the throne, and to have answers given at the time of presentation, of which refusals the following are instances.

In April 1775, (about three months previous to the determination on Alderman Plumbe's case) a petition, address, and remonstrance, was agreed to and ordered to be presented to his majesty; but Lord Hertford wrote a letter to the lord mayor informing him, "that for "the future his majesty would not receive on "the throne any address, remonstrance, and peti- "tion, but from the body corporate," and in July 1775, (the time when the judges determined that case) although Mr. Sheriff Plomer thought it his duty personally to address his majesty on the subject, the king declined to receive the address, remonstrance, and petition, then agreed to, otherwise than at the levee, observing "he was ever ready to receive addresses and petitions, but he was the judge where."

Again in the year 1781, another petition, address, and remonstrance, was agreed to, and

the usual deputation appointed to wait upon his majesty, to know where he would receive it, which produced a letter from the lord chamberlain to the lord mayor, informing him "that his majesty was not to receive it on the throne."

In the year 1797, the right of the livery to have their petition and address presented to the king on the throne, became again the subject of discussion, on a petition for the dismissal of ministers; but as it did not come from the city in its corporate capacity, his majesty declined to receive it on the throne, "but repeated his "readiness to receive it at the levee, provided "the number of persons presenting it did not "exceed the usual number of ten," (being the amount limited by statute of Car. II. before stated).

And so recently as in the last year, (1812), when a petition was agreed to at a common hall, and the sheriffs were directed to attend his royal highness the Prince Regent to learn his will and pleasure, as to the time and manner in which he would receive it, the sheriffs reported, that they had received a letter from Mr. Secretary Ryder, "that he had it in command "from his royal highness, to acquaint them "that no person beyond the number allowed "by law to present petitions could be admitted

" at the levee, except the lord mayor, sheriffs, " aldermen, and city officers; and the sheriffs " also reported, that they had stated that the " livery of London expected their address " would be received by the Prince Regent on " the throne, but they were informed that the " address would be received in the way in " which petitions of other bodies generally " were received, that it would be read at the " levee, and no answer would be returned to it, " but a number of the livery, not exceeding ten " persons, might be present, at its presentation," and in consequence, some strong resolutions were come to at the common hall, and afterwards inserted in the public papers, of which the following was one; but which must have proceeded from a misunderstanding of the matter, as it could not be supported either in law or fact.

" That it appears, from immemorial usage, to " have been the undisputed right of the lord " mayor, aldermen, and livery of London, in " common hall assembled, to present and read " their petitions and remonstrances to their so- " vereign upon the throne, and to receive an- " swers to the same at the time of presenta- " tion;" which, as before observed, has not been the case with any other body than that of

the lord mayor, aldermen, and commons, in common council assembled.

And again within the same year, (1812), it was publicly stated in the guildhall, and circulated also by the daily papers, "that although "the common hall and the common council "have distinct and separate rights, yet that "still the common hall, consisting of lord "mayor, aldermen, sheriffs, and livery, consti- "tute the great representative body of the city "of London, and that the common council "could do nothing in that name; that all must "be done in the name of the mayor, aldermen, "and commonalty of the city; that the com- "mon hall comprised those different classes, "and that those who were acquainted with the "history of London must know that the busi- "ness of the city had been transacted by the "livery long before the name of a common "council man had been heard of; and that "when the body of the commonalty became "too large to meet for the settlement of civic "affairs, representatives were chosen by the "commonalty in common hall assembled; that "by them the common council was formed, "and that by them members were sent to re- "present the city in parliament."

The writer, however, begs leave to submit

that he has antecedently proved, that the court of common council, and not the livery, is the great representative body of the city of London; that though the corporate name is the mayor and commonalty and citizens, yet that the common council are to all legal intents and purposes the corporation or corporate body; that the title of the common hall, is, "a meeting or "assembly of the mayor, aldermen, and livery-"men of the several companies of the city of "London, in common hall assembled, at the "guildhall of the said city," and not the mayor, aldermen, and commonalty of the city of London; that the livery are not mentioned till about the year 1467; that there had to a certainty, been common council men so early as the year 1285, (and probably long before); that the earliest company was not incorporated by charter, till the year 1327; that the ancient electors were the general body of freemen or citizens; that the first representative electors were chosen out of the wards; that the members of parliament were anciently elected by the common council, and returned under the common seal of the city; and that the livery were appointed electors by the common council; which common council, according to the declarations of the late Mr. Recorder Adair, and Mr. Common

Sergeant Nugent, in the opinion given by them respecting the Irish estates, (and which opinion is yearly handed to the members of the court in the city calendar), means the commonalty: as may also be shewn from various other authorities.

It is further to be observed, that the right or privilege of the court of common council, to present addresses and petitions to the throne, has been recognised and admitted so recently as the month of April, 1812; when the lord mayor, aldermen, and common council, presented an address to the Prince Regent on the throne, and received an answer at the time it was presented; and that, as before stated, the petition of the livery, agreed to at the common hall about the same time, was not only refused to be received by the Prince Regent on the throne, but in the house of lords, one of the petitions of the livery in common hall, presented by lord Erskine, in January, 1811, was refused to be received as the petition of the city of London, because it was deficient in not having the corporate seal affixed to it, and it was agreed by the noble lords present, that it could therefore only be received as containing the prayer of those individuals whose names were signed to it; and in consequence, that petition was withdrawn.

This right or privilege of the livery to present addresses and petitions to the throne, and to receive answers thereto at the time of presentation, appears therefore to be still insisted on by the livery, and denied by royal authority; which has heretofore occasioned great agitation in the public mind, and may probably be again introduced, unless the good sense of the livery should cause it to be abandoned as untenable, or their right to meet for those purposes should be otherwise further lawfully disposed of.

The writer, therefore, judging that he has made it satisfactorily appear that the authorities stated and referred to, and the ancient exercise of the municipal rights of the citizens of London, will bear him out in the proposition, "that "the right or privilege to present addresses and "petitions to the throne, and the houses of "parliament, from the citizens of London, in a "corporate capacity, is legally and constitu-"tionally in the court of common council, and "not in the livery;" considers himself perfectly justifiable in having thus submitted his views to the consideration of his fellow citizens, and particularly to the court of common council, it being a matter in which not only the rights and interests of the whole of the resident citizens, but also the proper dignity of the pro-

ceedings of the court of common council, and the respectable body of the livery, as well as of the crown and the houses of parliament are materially concerned; at the same time, requesting the reader to bear in mind, that very little is to be found on the subject of the rights of the livery, in any of the printed histories of this great city, in consequence of which, his difficulty in collecting materials has been increased; and that as perfection is not to be found in any man or description of men, in any degree or station of life whatever, he must crave the same allowance of candour for himself, which he thinks he would be ready to make for others in the like circumstances; being willing if it can be shewn that any of the principles on which he has proceeded are erroneous, to abandon any propositions that he may have mistakenly stated.

The writer is truly concerned that he feels himself constrained to observe, upon the recent circumstance of calling a common hall, to present an address to a royal personage, on the unhappy subject which gave rise to that address; the livery thereby taking the lead of the ancient immemorial representative body of the citizens, the court of common council, (but which, he understands, was alledged by the promoters of

that measure to be done under the apprehension that if it had been first proposed in the court of common council, the address would probably not have been carried) which connected with the declaration before observed upon: "that the lord mayor, aldermen, sheriffs, and "livery, constitute the great representative "body of the city of London," makes the writer apprehensive lest it should be drawn further into precedent, in derogation of the general rights of the citizens, to be constitutionally exercised under the authority of the court of common council; and also lest common halls should be thereby encreased, and the public mind improperly agitated, inasmuch, as according to the manner in which the proceedings at the common halls have lately been carried on, it is nearly impossible for men of moderate principles, and even a moderate share of confidence, to be heard with candour and attention, for an attempt to speak is frequently attended with personal insult, which is not only very unpleasant to the individuals themselves, but is also quite derogatory to the respectable character of liverymen of London, and a very strong argument against common halls, and in favor of the court of common council being continued and supported as the proper and constitutional deli-

berative body; inasmuch as order and fair debate may be preserved and maintained therein, and decisions come to on the subject under consideration, by dividing on the questions proposed.

It is not the wish of the writer, as he has before observed, to abridge the livery of any of their just rights; neither ought the livery to abridge the freemen at large, or the court of common council, of their legal and constitutional rights, but each ought to abide by their own. For although all true friends to the cause of freedom, (as Mr. Granville Sharp, writing on a particular subject, observed) might wish that every man should vote for his representative in the national council, without any other description of right or qualification, than that of being a man, yet as it never has been the case in this country, and as he says, it is not, perhaps, advisable to be adopted, for we know not what would be the effects of it; probably, (he says) they would be good, but we ought to walk in a trodden path, and to build on sure foundations." And where, it may be asked, can a better foundation be laid than that of the court of common council, who have hitherto with a well tempered zeal, supported the civil and religious liberties of the country, as well as those of their fellow citizens, and are annually elected by the

free householders from amongst their own neighbours and friends; who have an equal interest with themselves in the peace and welfare of the country at large from their diversified connections, as well as of the city locally; over whom the freemen have an annual control, and into whose office no one can intrude without being known. Whereas, on the other hand, at the common halls holden on public matters, there is a promiscuous assembly of persons, some of whom are entitled to vote, and others intrude themselves without a shadow of right, and the distinction cannot be known unless in the case of a poll or scrutiny, which only belong to matters of election; and at which meetings, probably, not a fourth part of the aggregate body of the livery are at any time present, nor actually summoned by their companies to attend. Many of the principal companies still adhering to the determination that their rights only extend to elections.

The writer therefore submits, it will clearly appear to the impartial judgment of his fellow citizens, that it is consonant with the most accurate principles of constitutional freedom and liberty, that no other select body from the citizen than the court of common council should have the power in a corporate capacity of interfering with those most important and funda-

mental public rights, of presenting petitions, and addresses to the throne, or either house of parliament, and that the supposed analogy of the livery to the freeholders of the county, is entirely out of the question, and each as distinct as the name itself; also that it is as much the duty of the court of common council to preserve these essential privileges to the freemen at large who elect them, as it is for the livery of London to preserve those important rights which they in their representative character now enjoy, under the positive declarations of legislative authority, and if this argument be correct, it is equally essential for the constituted authorities of the realm, in the due discharge of their important functions, to support their own dignity and honor, and to preserve the peace of the country, by refusing to receive petitions or addresses on the throne, or to either house of parliament, as expressive of the sentiments of the body of the citizens of London unless those petitions and addresses are presented from, or under the legally constituted authority of the court of common council; also, that as it has been determined by the judges of the land, that the lord mayor is not under any legal obligation to call, nor the livery to attend at common halls for general

purposes, that it will be equally his duty not to call common halls for any other purposes than those of elections, according to the Statute of the 11th of George I. cap. 18, before referred to, or at least without the previous sanction of the court of common council; by which means, the due exercise of the respective powers of the civic jurisdictions may yet be harmoniously preserved, and beneficially united; and that after all, in case it should appear to be necessary at any time to make further alterations in any part of the system of municipal government, then unless the contending parties can come to a legal and constitutional arrangement between themselves, there still remains the dernier resort: namely, a further application to parliament to regulate and establish that which shall be most esteemed for the common good, as was the case in the year 1725, when the last mentioned act was passed; but which the writer hopes the good sense and discretionary conduct of his fellow citizens will not require to be put in practice, unless it is evidently for the good of the whole and every part, of the civic community, and not incompatible with the interests of the country at large.

The writer has long greatly admired the excellency of the form of the municipal govern-

ment of the city of London, and is of opinion that, generally speaking, it is as complete as the wisdom and experience of ages could make it, and could certainly wish to see the counterpart of it, if practicable, exhibited in every other corporation in England, that they also might participate in the enjoyment of the exercise of the like invaluable and constitutional franchises and rights, which it must be admitted, are under as few restrictions as are compatible with the security of every well regulated government, and the interests of every well ordered society, and which the writer hopes will be continued, and carefully used by the public bodies of the citizens, (acting legally and constitutionally, and in a manner consistent with the proper dignity of the first city in the British empire), not only for the purpose of preserving tranquillity, peace, and good order within the city, but also of giving due effect to the consideration of the various important questions that may in the present times require to be maturely and deliberately considered, by the citizens of London, in their corporate capacity, for the honor and prosperity of the nation, and as far as circumstances will permit, for the more enlarged benefit of the whole human race.

The writer having before stated, " that upon " all proper occasions, the members of the " court of common council have been the " zealous supporters of true constitutional liber- " ty, and manifested a well governed zeal for the " common welfare, as might be evidenced by a " reference to the numerous petitions and ad- " dresses, and the instructions to the represen- " tatives in parliament that are recorded in the " history of their transactions ; some of which " were to be found in the book of addresses, " (commencing with his present majesty's ac- " cession to the crown of these realms, in the " year 1760) printed in the year 1778, by order " of that court," and passing over the variety of congratulatory addresses, and presentations of freedoms to great and exalted characters, that are to be found therein ; deems it proper before he concludes, to introduce the following matters contained in that book, as the most important for him to notice, in support of his assertion, and as being anterior to the year 1769, the period to which he has before alluded, and subsequent to the passing the act of the 11th of George I. ch. 18, before repeatedly referred to.

BLAKISTON, Mayor.

A common council holden in the chamber of the Guildhall of the city of London, on Thursday, the Twenty-second Day of October, 1761.

A motion was made, and question put, That this court doth resolve to represent to their members, who serve for this city in parliament, (by way of instructions) their sense on the present critical juncture? The same was unanimously resolved in the affirmative; which representation was agreed to in the following words:

The representation of the lord mayor, aldermen, and commons of the city of London, in common council assembled.

To Sir Robert Ladbroke, Knight; Sir Richard Glyn, knight and baronet; William Beckford, esquire; and the honourable Thomas Harley; this city's representatives in parliament.

We, the lord mayor, aldermen, and commons of the city of London, in common council assembled, think it at this time our duty, as it is our natural and undoubted right, to lay before you, this city's representatives, in the great council of the nation, soon to be assembled in parliament, what we desire and expect from you, in discharge of the great trust and confidence we and our fellow citizens have reposed in you.

That you take the earliest opportunity to use your utmost endeavours to obtain the repeal or amendment of the late act, intituled, "an act for the relief of in-

" solvent debtors;" in respect of the inconveniences arising from the compulsive clause, by which a door has been opened to the greatest frauds and perjuries, and if continued, must become the destruction of all private credit, so essential to the support of a trading people.

That you concur in, and promote all necessary measures, establishing good œconomy in the distribution of the national treasure; and for that purpose, that you endeavour to have a committee appointed, in order to enquire into any abuses which may have arisen in the application of it, and to prevent any fraud or illicit practices in the management thereof.

That you entertain just sentiments of the importance of the conquests made this war, by the British arms, at the expence of so much blood and treasure; and that you will, to the utmost of your power and abilities, oppose all attempts for giving up such places as may tend to lessen our present security, or by restoring the naval power of France, render us subject to fresh hostilities from that natural enemy, particularly, that the sole and exclusive right of our acquisitions in North America, and the fisheries, be preserved to us.

As the present happy extinction of parties; the harmony and unanimity of all his majesty's subjects; their zeal and affection to their native king, and the great increase of commerce, are most convincing proofs to us of this nation's ability, still to carry on, and vigorously prosecute the present just and necessary war, it is our desire, that you concur in giving his majesty

such supplies as shall enable him to pursue all those measures which may promote the true interest of his kingdoms, and place him above the menaces of any power that may pretend to give laws, or prescribe limits to the policy and interests of this nation; but as it is apparent, that our enemies flatter themselves with the hopes of exhausting our strength, by the immense expence in which we are at present engaged, we therefore require you, in the farther prosecution of this war, to support such measures as may frustrate those expectations, yet to act with the utmost vigour in the reduction of their remaining colonies, so as to obtain a safe and honourable peace.

BECKFORD, MAYOR.

A common council holden in the chamber of the Guildhall of the city of London, on Wednesday, the Twenty-third Day of March, 1763.

A committee was appointed to draw up a representation, by way of instruction, to the several members who serve for this city in parliament, against so much of a bill, now depending in the honourable house of commons, for granting to his majesty an additional duty on wine, cyder, and perry, as relates to subjecting the makers of cyder and perry to the excise laws; which committee presented a draft of a representation, by them prepared, to the representatives of this city in parliament; and after twice reading, and several amendments made thereto, the same was agreed to in the following words:

The representation of the lord mayor, aldermen, and commons of the city of London, in common council assembled, to the representatives of this city in parliament.

This court cannot forbear expressing to you their surprise at the precipitate progress which has been already made, in a new attempt towards a general excise.

The extension of excise laws into private houses, whereby the subject is made liable to a frequent and arbitrary visitation of officers, and the judicial determination of commissioners, removeable at pleasure, is inconsistent with those principles of liberty which have hitherto distinguished this nation from arbitrary governments.

An attack upon the liberty of the subject, made so immediately, after a glorious and successful war, and at a time when we had just reason to expect to enjoy the blessings of peace, demands your serious attention.

And this court doth remark, that whatever may be the necessity of the times, the smallness of the sum indicates that cannot be the only motive to so extraordinary a measure.

For these reasons, this court doth most earnestly recommend your constant attendance in parliament, and utmost endeavours to oppose every enlargement and extension of the powers of excise; and that you do not conceal from the public any such attempts, nor suffer yourselves to be amused by any plausible alteration in the bill, subjecting the makers of cyder and perry to excise laws.

BECKFORD, MAYOR.

A common council holden in the chamber of the Guildhall of the city of London, on Monday, the 28th Day of March, 1763.

RESOLVED,

That it is the opinion of this court to present an humble petition to every branch of the legislature, before whom the bill subjecting the makers of cyder and perry to excise laws, shall depend.

Petitions being prepared, were agreed to, and afterwards presented, which are stated at length in the book above referred to, and contain language and representations, impressive and respectful, as becomes the free subjects of a free constitution, like that of England.

FINIS.

Printed by J. D. Dewick, 46, Barbican.